# Washington State Register

## JUNE 3, 1992

OLYMPIA, WASHINGTON

## ISSUE 92-11

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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

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## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

## STATE MAXIMUM INTEREST RATE

**(Computed and filed by the State Treasurer under RCW 19.52.025)**

The maximum allowable interest rate applicable for the month of June 1992 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.


# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

### 2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 RCW) may be distinguished by the size and style of type in which they appear.

(a) **Proposed rules** are those rules pending permanent adoption by an agency and are set forth in eight point type.

(b) **Adopted rules** have been permanently adopted and are set forth in ten point type.

(c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

### 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

(a) In amendatory sections—
  (i) underlined material is new material;
  (ii) deleted material is ((~~lined out and bracketed between double parentheses~~));

(b) Complete new sections are prefaced by the heading NEW SECTION;

(c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

### 4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

### 5. EFFECTIVE DATE OF RULES

(a) Permanently adopted agency rules normally take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.

(b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one-hundred-twenty days from the date of filing.

(c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

### 6. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

### 7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

# 1991 – 1992

## DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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|---|---|---|---|---|---|
| | Non-OTS & 30 p. or more | Non-OTS & 11 to 29 p. | OTS[2] or 10 p. max. Non-OTS | | |
| *For Inclusion in—* | *File no later than—* | | | *Count 20 days from—* | *For hearing on or after* |
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| 92-24 | Nov 4 | Nov 18 | Dec 2 | Dec 16 | Jan 5, 1993 |

[1]All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

[2]A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

[3]At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

## WSR 92-11-001
PERMANENT RULES
## DEPARTMENT OF AGRICULTURE
[Filed May 6, 1992, 1:41 p.m.]

Date of Adoption: May 6, 1992.

Purpose: Establish standards for the production of organic meat and dairy products; amend chapter 16-156 WAC to allow producers of organic meat and dairy products to be certified by the Department of Agriculture.

Citation of Existing Rules Affected by this Order: Amending chapter 16-156 WAC.

Statutory Authority for Adoption: Chapter 15.96 [15-.86] RCW.

Pursuant to notice filed as WSR 92-07-052 on March 12, 1992.

Changes Other than Editing from Proposed to Adopted Version: As provided for under RCW 34.05.340(3), the Department of Agriculture is making two changes to the permanent rule filing.

In the proposal, new section WAC 16-162-060 Feed, is deleted from the permanent filing. After public testimony, it has been determined that the department will work with the industry further on this matter, and also ascertain what national standards are being developed in relation to the federal organic law in this area.

New section WAC 16-162-070 Disease prevention and control, the department is deleting the last sentence of the first paragraph, which states, "Producers of organic animal or dairy products shall provide a quarterly veterinary certificate of freedom from disease." It appears, at this time, that the quarterly visit by a veterinarian is unduly burdensome and not necessary to protect human or animals. The department will monitor this situation, however; and should it be necessary, will work with affected industry on any necessary remedies.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1992
Michael V. Schwisow
Deputy Director

### Chapter 16-162 WAC
### ANIMAL PRODUCTION STANDARDS FOR ORGANIC MEAT AND DAIRY PRODUCTS

NEW SECTION

WAC 16-162-010 PURPOSE. This chapter is promulgated pursuant to RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act. This chapter provides standards for the production of organic meat and dairy products.

NEW SECTION

WAC 16-162-025 CERTIFICATION. Producers of organic animal products seeking certification as an organic food producer may apply for certification under chapter 16-156 WAC.

NEW SECTION

WAC 16-162-030 DEFINITIONS. As used in this chapter:

(1) "Approved" means any material or practice which meets the required criteria or standards for use in the production of organic animal products.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(4) "Drug" means any chemical substance or noninfectious biological substance, which may be administered to or used on or for animals, as an aid in the diagnosis, treatment, or prevention of disease or other abnormal condition, for the relief of pain or suffering, to control or improve any physiological or pathological condition, or to affect the structure or function of the animal.

(5) "Material" means any substance or mixture of substances that is used internally or externally in the production of animals or animal products.

(6) "Prohibited" means any material or practice which is disallowed in the production of organic animal products.

(7) "Recommended" means that the stated materials or practices are encouraged.

(8) "Remedy" means anything that relieves or cures a disease.

(9) "Required" means any material or practice which must be used or followed for the production of organic animal products.

NEW SECTION

WAC 16-162-031 "ORGANICALLY PRODUCED MEAT." Meat and meat products that have been produced from an animal which has, along with its mother, been raised in compliance with the provisions of this chapter from the date of its birth through slaughter may be labeled and sold as "organic" or "organically produced."

In addition:

(1) Meat and meat products that have been produced from an animal raised for beef which has been raised in compliance with the provisions of this chapter for at least twelve months prior to slaughter may be labeled and sold as "organic" or "organically produced"; and

(2) Meat and meat products that have been produced from birds which have been raised in compliance with the provisions of this chapter from one day after hatching may be labeled and sold as "organic" or "organically produced."

NEW SECTION

WAC 16-162-032 "ORGANICALLY PRODUCED MILK." Milk produced from an animal which has been raised in compliance with this chapter since the conception of the offspring which causes lactation may be labeled and sold as "organic" or "organically produced."

NEW SECTION

WAC 16-162-033 "ORGANICALLY PRODUCED EGGS." Eggs produced from hens which have been raised in compliance with this chapter since one day after hatching may be labeled and sold as "organic" or "organically produced."

NEW SECTION

WAC 16-162-050 LIVING CONDITIONS. (1) Required:

(a) Organic producers must provide, when appropriate, their animals with access to fresh air and daylight.

(b) Every animal must have enough room to get up, lie down, turn around, groom, and stretch its limbs.

(c) Stock facilities must be clean and sanitary.

(2) Prohibited:

Practices that are contrary to humane treatment guidelines, good sanitation practices, and good animal health programs.

NEW SECTION

WAC 16-162-070 DISEASE PREVENTION AND CONTROL. A proper herd health program should include strategies for disease prevention, parasite control, and disease treatment. Producers of organic animal products shall market only healthy animals and animal products, and shall never deny treatment to an animal in order that it may be labeled or sold as organic.

(1) The following practices are recommended:

(a) Quarantine and fecal exams for all incoming stock.

(b) Adequate pasture rotation and good pasture management.

(c) Maintaining and cleaning facilities regularly.

(d) Periodic fecal exams and the culling of seriously infested animals.

(e) Vector and intermediate host control.

(f) Biological control methods.

(g) Maintaining dusting wallows for poultry.

(2) The following materials or practices are approved for use in the production of organic animal products:

(a) Rotenone and pyrethrum insecticides for external parasite control and for fly management, only if labeled for such use.

(b) Natural materials used in homeopathic, naturopathic, and herbal remedies.

(c) Tamed iodine, alcohol, and/or hydrogen peroxide as a disinfectant.

(d) Vaccinations against endemic disease.

(e) Sodium hypochlorite (bleach), for use on machinery and facilities.

(f) Steam sterilization of equipment.

(3) Prohibited materials and practices. The disease prevention and control materials and practices that are prohibited for use in the production of organic animal products includes but is not limited to the following:

(a) Administration of hormones or subtherapeutic levels of antibiotics.

(b) The use of synthetic internal parasiticides on a routine basis.

(c) Synthetic internal parasiticides used within twelve months of slaughter, milk production, or egg production.

(d) Antibiotics used within thirty days or twice the FDA withdrawal time, whichever is longer, in the production of organic milk.

(e) Antibiotics used within twelve months in the production of organic meat or eggs.

NEW SECTION

WAC 16-162-100 RECORDKEEPING. (1) All organic stock must be ear tagged or individually marked with the exception of poultry, which may be identified by flock.

(2) Records must be kept of:

(a) All medications administered (including dates, dosages, and sources);

(b) All feeds bought and fed;

(c) All feed supplements used; and

(d) The weight of slaughter animals at slaughter.

(3) All records must be kept from birth or purchase and for two years after sale or slaughter.

(4) Receipts for stock and materials must be kept to insure a complete audit trail.

(5) Inadequate recordkeeping may constitute cause for the director to prohibit labeling or marketing animal products as "organic" or "organically produced."

AMENDATORY SECTION (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-001 APPLICATION. Organic food producers and transition to organic food producers who ((~~wish~~)) desire to obtain certification under this chapter must submit an application and pay prescribed fees to the department on an annual basis. This application must include a sworn statement that they have over the past year, and will continue throughout the year for which the application is made, fully comply with the statute and rules for production of organic and/or transition to organic food.

((~~Transition to organic food producers who wish certification under this chapter must also submit an application and pay prescribed fees to the department on an annual basis. This application must include a sworn statement that they have since last harvest and will continue throughout the year for which application is made, fully comply with the statute and rules for production of organic food.~~))

Each application shall be accompanied by a completed grower information form which will remain on file at the department of agriculture office.

NEW SECTION

WAC 16-156-003 PURPOSE. This chapter is promulgated pursuant to RCW 15.86.070 wherein the director is authorized to adopt rules establishing a certification program for producers of organic or transition to organic food.

AMENDATORY SECTION (Amending WSR 91-09-028, filed 4/11/91, effective 5/12/91)

WAC 16-156-005 STANDARDS FOR CERTIFICATION. Standards for organic food producer and transition to organic food producer certification shall be as set forth in RCW 15.86.030 and rules adopted pursuant to chapter ((~~16-154 WAC~~)) 15.86 RCW.

AMENDATORY SECTION (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-010 SAMPLING. A sample representative of a ((~~crop grown~~)) food product grown, raised, or produced by organic food producers and transition to organic food producers under the organic food certification program may be tested for pesticide residues or other contaminants whenever the director deems it necessary ((~~for~~)) to grant, renew, deny, or revoke certification. ((~~These samples shall be collected by the department of agriculture in a representative manner at the producer's farm.~~))

It shall be the producer's responsibility to arrange for and bear the costs for any additional testing which is deemed necessary by the director ((~~for~~)) to grant, renew, deny, or revoke certification.

AMENDATORY SECTION (Amending WSR 91-09-028, filed 4/11/91, effective 5/12/91)

WAC 16-156-020 INSPECTION. The department of agriculture shall make at least one announced visit and ((~~any unannounced~~)) may make additional visits ((~~deemed~~)) as the director deems necessary to each organic food producer and transition to organic food producer under the organic food certification program each year for the purpose of inspection for compliance with the standards for certification which are found in chapter 15.86 RCW (Organic food products) and ((~~chapter 16-154 WAC (Organic crop production standards)~~)) rules adopted pursuant to chapter 15.86 RCW.

((~~This~~)) Inspections may entail survey of required records, examination of crops and fields, and any other information deemed necessary to the requirements of ((~~this chapter~~)) chapter 15.86 RCW or any rules adopted thereunder.

It shall be the producer's responsibility to arrange for and bear the costs for any additional inspections which are deemed necessary by the director ((~~for~~)) to grant, renew, deny, or revoke certification.

AMENDATORY SECTION (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-030 CERTIFICATION. Washington state department of agriculture certification of organic food producers and transition to organic food producers means that any analysis of the representative samples taken by the department of agriculture showed no ((~~illegal pesticide~~)) prohibited material usage or other contaminants and inspection of the producer by the department of agriculture showed no ((~~illegal~~)) prohibited practices being followed as defined in chapter 15.86 RCW or rules adopted thereunder.

Organic food producers who apply under this program will be able to use the words, "produced under Washington state department of agriculture organic food certification program" in their labeling as long as their practices comply with ((~~this chapter and~~)) chapter((~~s~~)) 15.86 RCW ((~~and 16-154 WAC~~)) or any rules adopted thereunder.

Food produced under this organic food certification program may be identified by the use of the attached logo. This logo shall only be used for food produced ((~~under~~)) by producers who have been certified by the Washington state department of agriculture organic food certification program.

Transition to organic food producers who apply under this program will be able to use the words "produced under Washington department of agriculture transition to organic food certification program" in their labeling as long as their practices comply with this chapter and chapter 15.86 RCW and ((~~chapter 16-154 WAC~~)) rules adopted thereunder.

Food produced under this transition to organic food certification program may be identified by use of the attached logo. This logo shall only be used for food produced ((~~under~~)) by producers who have been certified by the Washington state department of agriculture's transition to organic food certification program.

In no event shall food be sold as Washington certified organic or Washington certified transition to organic prior to an on-site inspection ((~~being~~)) made by the department of agriculture and a grower information form being ((~~on file~~)) filed with the department of agriculture and organic food producer certification being granted for that crop year.

The logos to identify organic food and transition to organic food produced under this certification program((~~s~~)) shall not be changed except for increases or decreases in size, as appropriate.

AMENDATORY SECTION (Amending WSR 91-09-028, filed 4/11/91, effective 5/12/91)

WAC 16-156-035 DECERTIFICATION. Whenever the director finds that a producer who has been certified under this program has:

(1) Violated the standards for certification which are set forth in RCW 15.86.030 or any rules adopted under chapter 15.86 RCW;

(2) ((~~Has~~)) Filed an application for certification which is false or misleading in any particular;

(3) ((~~Has~~)) Violated any of the provisions of this chapter; or

(4) ((~~Has~~)) Failed to provide records as required by WAC 16-154-060 or 16-162-100;

The director may issue an order revoking that producer's certification under this program or he may issue an order directing the producer to take other appropriate action to correct the violation. If appropriate action is taken, the producer will be returned to its previous status under the program.

Any producer who has received notice that its certification may be revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW. ((~~Such application must~~

~~be in writing, addressed to the director of the Washington department of agriculture and be received in the Olympia administrative offices not later than twenty days from the date of the notice of the opportunity to apply for a hearing.~~))

AMENDATORY SECTION (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-050 APPLICATION FOR CERTIFICATION. Organic food producers and transition to organic food producers who wish to apply for the ((~~producer inspection~~)) organic food certification program must apply to the department by January 15 of each year. The application ((~~and fees~~)), accompanied by the appropriate fee shall be ((~~forwarded~~)) submitted to the department on forms furnished by the department.

Applications made after the set deadline may be processed as the department can schedule the initial inspections, provided that the producer may still conduct business as provided in RCW 15.86.050.

## WSR 92-11-002
### PROPOSED RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)
[Filed May 8, 1992, 10:19 a.m.]

Original Notice.

Title of Rule: WAC 388-29-005 Fair hearing; 388-33-377 Grant continuation pending fair hearing; 388-33-379 Continuation of assistance—Fair hearing; and 388-33-389 Grievance procedure—Applicants and recipients of public assistance, medical assistance, and social services administered by Title 388 WAC.

Purpose: Update terminology relating to titles used in the fair hearing process.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Updating terminology makes the terms consistent with those used in chapter 388-08 WAC, Fair hearings chapter.

Reasons Supporting Proposal: To update the terminology relating to titles used in the fair hearing process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, 438-8309.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on June 23, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by June 23, 1992.

Date of Intended Adoption: June 25, 1992.

May 8, 1992
Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-33-379 CONTINUATION OF ASSISTANCE—FAIR HEARING. (1) When a recipient requests a fair hearing during the advance notice period to contest a proposal to reduce or suspend or terminate public assistance, the department shall not implement the contested proposal unless the sole issue is:

(a) An assistance adjustment for classes of recipients required by state or federal law; or

(b) Termination of assistance as a result of federal or state law terminating program.

(2) When the department does not give a recipient advance notice to reduce, suspend or terminate assistance and the recipient files a request for a fair hearing within ten days of the mailing of the adverse notice, the department shall not implement the contested proposal unless the sole issue is:

(a) An assistance adjustment for classes of recipients required by state or federal law; or

(b) Termination of assistance as a result of federal or state law terminating a program.

(3) Assistance authorized under subsection (1) or (2) of this section. The department shall pay through the month in which the first of the following occurs:

(a) The appellant requests in writing that assistance not be paid;

(b) The administrative law judge (ALJ) determines the sole issue is to contest the law or department policy;

(c) The ALJ determines that the appellant has caused a unreasonable delay in the proceeding;

(d) The ALJ enters an order dismissing or settling the proceeding; or

(e) The ALJ enters an initial decision which is adverse to the appellant.

(4) Assistance paid to a recipient under this section is an overpayment to the extent the final order or decision is adverse to the appellant.

AMENDATORY SECTION (Amending Order 1760, filed 2/3/82)

WAC 388-33-389 GRIEVANCE PROCEDURE—APPLICANTS AND RECIPIENTS OF PUBLIC ASSISTANCE, MEDICAL ASSISTANCE, AND SOCIAL SERVICES ADMINISTERED BY TITLE 388 WAC. (1) If an applicant or recipient is aggrieved by a decision of the department, he or she shall have the right to present the grievance, in written form, to the supervisor of the line worker with whom the applicant or recipient had previously been dealing.

(2) The supervisor shall make a decision on a grievance and notify the recipient in writing within ten days of receipt of the grievance.

(3) If the applicant or recipient is not satisfied with the decision of the supervisor, he or she shall have the right to present the grievance in writing to the office administrator.

(4) The ((~~CSO~~)) administrator shall make a decision on a grievance and send the applicant or recipient written notice of his or her decision within ten days of receipt of the grievance. This notice terminates the grievance procedure.

(5) ((~~The~~)) An applicant's or recipient's exercise of the right to pursue a grievance shall not in any way preclude the exercise of any rights ((~~of~~)) the applicant or recipient may have under RCW 74.08.080 or chapter ((~~388-08 WAC~~)) 34.05 RCW.

(6) If administrative or judicial review is pending on the same issue, the department may choose to respond to the grievance by informing the applicant or recipient that the department prefers that the matter be resolved through the administrative or judicial review process.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-33-377 Grant continuation pending fair hearing.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-29-005 Fair hearing.

## WSR 92-11-003
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3384—Filed May 8, 1992, 10:21 a.m.]

Date of Adoption: May 8, 1992.

Purpose: These new Washington Administrative Codes incorporate the advanced registered nurse practitioners services into the rules. This is a present service that needs to be included into the regulations.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 92-08-107 on April 1, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 8, 1992
Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-86-011 ADVANCED REGISTERED NURSE PRACTITIONERS (ARNP) SERVICES. (1) The department shall pay for ARNP services within the ARNP's scope of practice for medical care clients.

(2) The department shall limit ARNP's reimbursed services to:

(a) One call per day for either a hospital, emergency room or an office call; and

(b) Two calls per month for nonemergent conditions in a nursing facility.

(3) The department shall reimburse for additional calls under subsection (2)(a) or (b) of this section when:

(a) Medically necessary; and

(b) Justified at the time of billing.

(4) The ARNP may give assessments for healthy kids program, also known as EPSDT, described under WAC 388-86-027.

(5) ARNP's services for care of clients who are out of state shall be covered as described under WAC 388-86-115.

(6) The department shall not require prior approval of medically necessary surgical procedures within the ARNP's scope of practice.

NEW SECTION

WAC 388-87-032 ADVANCED REGISTERED NURSE PRACTITIONERS SERVICES (ARNP)—PAYMENT. The department shall purchase ARNP services as described under WAC 388-86-011 on a fee-for-service or encounter rate.

## WSR 92-11-004
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 92-29—Filed May 8, 1992, 4:15 p.m., effective May 12, 1992, 12:01 a.m.]

Date of Adoption: May 8, 1992.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-090 and 220-69-250.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The trip limit for sablefish ends May 11, 1992. A hold inspection program will assure that the trip limits are effective through May 11th. This proposal is made at the recommendation of the Pacific Fisheries Management Council.

Effective Date of Rule: May 12, 1992, 12:01 a.m.

May 8, 1992
Joseph R. Blum
Director

*NEW SECTION*

*WAC 220-44-09000A COASTAL BOTTOM FISH—HOLD INSPECTIONS. Effective May 12, 1992 until further notice, it is unlawful for vessels other than trawl vessels to land sablefish into any Washington State port unless the provisions of this section have been complied with:*

*(1) During a period of either thirty days or until the unrestricted sablefish fishery ends, whichever occurs first, any fisher intending to land sablefish taken with gear other than trawl gear must have a Washington sablefish vessel hold inspection certificate.*

*(2) The inspection certificate will be issued to properly licensed vessels made available for inspection in the ports of Bellingham, Neah Bay, La Push, Westport and Ilwaco, beginning on May 11, 1992.*

*(3) Inspections will be performed by authorized department personnel not earlier than May 11, 1992 and during the following thirty-one day period, or until the unrestricted sablefish fishery ends, whichever occurs first.*

*NEW SECTION*

*WAC 220-69-25000A REQUIRED INFORMATION ON NONTREATY FISH RECEIVING TICKETS. Notwithstanding the provisions of WAC 220-69-250, effective May 12, 1992, and during the following thirty-one day period, or until the unrestricted sablefish*

*fishery ends, whichever occurs first, the Washington sablefish vessel hold inspection certificate number is a required entry on all fish receiving tickets documenting landings and sale of sablefish taken with gear other than trawl gear. The Washington sablefish vessel hold inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.*

## WSR 92-11-005
## COLUMBIA RIVER GORGE COMMISSION
[Filed May 8, 1992, 4:44 p.m.]

**Reviser's note:** The following material has **not** been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

NOTICE OF PROPOSED RULEMAKING HEARING

Agency: Columbia River Gorge Commission.

The above named agency gives notice of hearing.

Hearings to be Held: June 23, 1992, at 9:30 a.m., Mid-Columbia Medical Office Plaza, 1810 East 19th, The Dalles, OR 97058.

Hearings Officer(s): Stafford Hansell, Chair.

Pursuant to the statutory authority of RCW 43.97-.015 the following action is proposed: Adopt 350-50.

No prior notice given.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by June 19, 1992, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, ATTN: Rules Coordinator, (509) 493-3323.

Allen Bell
May 5, 1992

Summary: The rule sets out the procedures that must be followed in order for the commission to consider a plan amendment.

Statement of Need: The process for submitting a plan amendment is not described in the National Scenic Act; the commission, local government and public at large needs guidance as soon as possible on how to submit plan amendments; and a delay in adoption of the rule will hold up the process of the commission considering plan amendments.

Authority: 16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 49.97.035 [43.97.035].

Documents Relied Upon: The Columbia River Gorge national scenic area final management plan and the National Scenic Area Act.

Fiscal Impact: The rule should expedite the plan amendment process and therefore, reduce costs.

COLUMBIA RIVER GORGE COMMISSION
PROPOSED RULE
Chapter 350
Division 50
Plan Amendment Process

350-50-010. Purpose.

This division specifies the process that will be used by the Columbia River Gorge Commission (Commission) when it considers amendments to the Management Plan.

350-50-020. Authority.

Amendments to the Management Plan must comply with the requirements of the Scenic Area Act. These requirements are included in Section 6(h) of the Scenic Area Act:

(1) If the Commission determines at any time that conditions within the Scenic Area have significantly changed, it may amend the Management Plan.

(2) The Commission shall submit amendments to the Management Plan to the Secretary of Agriculture for review, in accordance with the provisions of the Scenic Area Act for adoption of the Management Plan.

(3) The Commission shall adopt an amendment to the Management Plan by a majority vote of the members appointed, including at least three members from each state.

(4) An amendment to the Management Plan must be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act.

350-50-030. Criteria for Plan Amendment Approval.

The Commission must find that the following three criteria are satisfied before it approves an amendment of the Management Plan:

(1) Conditions in the Scenic Area have significantly changed. This means:

(a) physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;

(b) new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision; or

(c) changes in legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan;

(2) No practicable alternative to the proposed amendment exists; and

(3) The proposed amendment would be consistent with the standards and purposes of the Scenic Area Act.

350-50-040. Origin of Applications.

(1) Applications to amend the Management Plan may originate from the Commission or interested persons, including state and local governments, Indian tribal governments, public interest groups, or affected landowners.

350-50-050. Application for Plan Amendment.

Applications to amend the plan shall contain a statement from the sponsor that explains why the proposed plan amendment is needed. The statement shall demonstrate that the proposed amendment complies with the

purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-060. Processing of Application.

Each application for a plan amendment will be reviewed according to the provisions in the Management Plan [Part IV, Chapter 1, section Amendment of the Management Plan, Policy 2].

**Reviser's note:** The brackets and enclosed material in the text above occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-50-070. Submittal and Acceptance of Application.

(1) Applications for plan amendments shall be submitted to the Commission office by a sponsor. An original and fifteen copies of the each application are required.

(2) Within ten (10) working days of receiving an application, the Executive Director shall review the application for completeness and adequacy. No application shall be accepted as complete until all omissions and deficiencies noted by the Executive Director have been corrected by the applicant.

(3) The Executive Director shall recommend to the Commission whether to commence the process for review of the proposed amendment to the plan. A decision to commence the process must be based on a majority vote of the Commission at a regularly scheduled meeting.

350-50-080. Notice of Application.

(1) Public notice of the completed application will be sent to U.S. Forest Service - National Scenic Area Office, States of Oregon and Washington, Indian tribal governments, and the six Gorge county planning offices.

(2) Notice shall be published in local Gorge newspapers serving the National Scenic Area.

(3) Copies of the complete application will be available for inspection at the Commission office during normal office hours.

(4) Interested persons shall have twenty (20) working days from the date the notice is posted to submit written comments to the Executive Director. Written comments should address whether the proposed amendment would be consistent with the purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-090. Report of the Executive Director.

The Executive Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete. Upon application of the Executive Director, the Commission may extend the time for submission of the report. The report will analyze the proposed amendment based on the purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-100. Hearings.

(1) The Commission will conduct a hearing on every application that the Commission has decided to review pursuant to 350-50-070(3).

(2) A hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the plan amendment in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on a plan amendment application pursuant to 350-50-080(3) may participate in the hearing by filing a Notice of Intervention with the Director within twenty (20) working days of the date the Executive Director's report is prepared, pursuant to 350-50-090. The Notice of Intervention shall also be served by mail upon the applicable sponsor. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed plan amendment. The sponsor shall be afforded an opportunity for rebuttal argument.

(3) The Commission may seek additional information from any applicant before and during the hearing.

**Reviser's note:** The brackets and enclosed material in the text above occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-50-110. Consultation.

In considering an amendment to the Management Plan, the Gorge Commission shall consult with the Forest Service, both states, the six Gorge counties, all four Indian tribal governments and agencies or organizations that have a specific interest.

350-50-120. Review by the Secretary of Agriculture.

According to Sections 6(f)and 6(h) of the Scenic Area Act, an amendment to the Management Plan adopted by the Commission will be submitted to the Secretary of Agriculture. The Secretary of Agriculture will review the amendment and determine if it is consistent with the purposes and standards of the Scenic Area Act. The Secretary has 90 days from the day the Commission submits an amendment to complete his/her review and make a determination of concurrence or non-concurrence.

## WSR 92-11-006
## COLUMBIA RIVER GORGE COMMISSION

[Filed May 8, 1992, 4:45 p.m.]

**Reviser's note:** The following material has **not** been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

CERTIFICATE AND ORDER FOR FILING PERMANENT ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER

I hereby certify that the copy shown below is a true, full and correct copy of permanent rule(s) adopted on

April 28, 1992, by the Columbia River Gorge Commission to become effective upon filing.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action in Code Reviser's Register: Yes.

Now therefore, it is hereby ordered that the following action to be taken: Adopting 350-40; and amending 350-20-004, as Administrative Rules of the Columbia River Gorge Commission.

Dated this 5th day of May, 1992.

Allen Bell
Acting Executive Director

Statutory Authority: RCW 43.97.015 to 43.97.035, Chapter 499, Laws of 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

Summary: The rule sets out the procedures a county must follow in order to prepare an application for an urban area revision.

Statement of Need: The process for submitting an application for an urban area revision is not described in the National Scenic Act; and each county that is affected needs guidance as soon as possible to prepare the requisite applications.

Authority: 16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 43.97.035.

Documents Relied Upon: The Columbia River Gorge national scenic area final draft management plan and Gorge Commission deliberations on November 19, 1991, December 17, 1991, and January 14 and 28, 1992.

Fiscal Impact: The rule should expedite the urban area revision process and therefore, reduce costs.

350-20-004

Summary: The rule would allow a modification to a structure from its premodification appearance. The rule would allow a modification to an existing structure which already protrudes above a cliff, bluff or skyline upon showing that no alternative modification would avoid the protrusion, that the additional protrusion would not increase more than 50 percent, and that mitigation measures would reduce the contrast of the finished structure below that of the premodification structure.

Statement of Need and Justification: Failure to amend the rule as proposed will deprive the commission of an opportunity to enhance the scenic resources of the gorge by reducing the contrast of existing development otherwise exempt from regulation under commission rule. Failure to amend the rule will also result in serious prejudice to owners of some properties who could not otherwise make additions to residences built before passage of the Scenic Area Act and who have no alternative way to modify them which will not protrude above a cliff, bluff or skyline.

Authority: 16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 49.97.035 [43.97.035].

Documents Relied Upon: Columbia River Gorge National Scenic Area Act (P.L. 99-663) and final interim guidelines. The proposed amendment to the rule is based upon three years of experience applying the existing rule.

Fiscal Impact: The rule will allow certain applications for additions to be approved, that would otherwise have to be denied. This will reduce appeals to the commission, and therefore reduce costs to the commission and applicants.

COLUMBIA RIVER GORGE COMMISSION
Chapter 350
Division 40
Revision of Urban Area Boundaries

350-40-000. Purpose.

This division specifies the process that will be used by the Columbia River Gorge Commission (Commission) when it considers minor revisions to the boundaries of any Urban Area.

350-40-010. Definitions.

The definitions in Chapter 350, Division 20, Section 002 shall apply to this division.

350-40-020. Authority.

The Commission may make "minor revisions" to the boundaries of an Urban Area [Scenic Area Act, Section 4(f)]. Such revisions must comply with procedural requirements and criteria in the Scenic Area Act.

Three procedural requirements are included in Section 4 (f)(1) of the Scenic Area Act:

(1) Requests to revise an Urban Area boundary must be submitted to the Commission by a county government;

(2) The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and

(3) Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve any revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

Section 4 (f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

(1) A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;

(2) Revision of Urban Area boundaries would be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

(3) Revision of Urban Area boundaries would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(4) Revision of Urban Area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

**Reviser's note:** The brackets and enclosed material in the text above occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-40-030. Application for Revision.

Applications to revise the boundaries of any Urban Area shall contain the following information:

(1) A statement from the county sponsoring the Urban Area boundary revision, signed by the county commissioners.

(2) A statement that the senior-elected or appointed official(s) of any affected municipality or special district have been notified.

(3) A statement that explains why the proposed Urban Area boundary revision is needed. The statement shall describe the anticipated land uses that would occur in the affected area and demonstrates how the proposed revision complies with the criteria in the Scenic Area Act.

(4) A map of the area that would be added to the existing Urban Area. The map shall be drawn to scale and shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. It shall include the following elements:

(a) North arrow;

(b) Map scale;

(c) Boundaries of all parcels within the subject area, with labels showing the name of each property owner and the size of each parcel;

(d) Current municipal zoning designations, where applicable;

(e) Significant terrain features or landforms;

(f) Bodies of water and watercourses;

(g) Existing roads and railroads;

(h) Existing dwellings and other structures; and

(i) Location of existing services, including water systems, sewage systems, and power and telephone lines.

(5) For incorporated areas, a map of the current boundary of the municipality.

(6) A map of adopted land use designations and zoning for the existing Urban Area.

(7) For Oregon applications, a map of currently approved urban growth boundaries.

(8) An analysis based on criteria in the Scenic Area Act. (For guidance see Urban Areas Boundary Revisions Handbook, Gorge Commission 1992).

350-40-040. Processing of Application.

Each application to revise the boundaries of an Urban Area will be reviewed according to the priorities established by the Commission in the Management Plan [see Part IV, Chapter 1, section Revision of Urban Area Boundaries, Policy 5]. Within priority categories established in the Management Plan, applications will be reviewed in the order received.

**Reviser's note:** The brackets and enclosed material in the text above occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-40-050. Submission and Acceptance of Application.

(1) Applications to revise the boundaries of an Urban Area shall be submitted directly to the office of the Commission by a county government. An original and fifteen copies of each application are required. Only two copies of the large scale maps are required.

(2) Within ten (10) working days of receiving an application, the Director shall review the application for completeness and adequacy. No application shall be accepted as complete until all omissions and deficiencies noted by the Director have been corrected by the applicant.

350-40-060. Notice of Application.

(1) Public notice of the completed application will be posted at Commission and U.S. Forest Service offices and shall be made available for posting at the applicable county or city planning office(s).

(2) Copies of the complete application will be available for inspection at the Commission office during normal office hours.

(3) Interested persons shall have twenty (20) working days from the date the notice was posted to submit written comments to the Director. Written comments should address whether the proposed Urban Area boundary revision would be consistent with the criteria in the Scenic Area Act.

350-40-070. Report of the Director.

The Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete. Upon application of the Director, the Commission may extend the time for submission of the report. The report will analyze the proposed Urban Area boundary revision based on the criteria in 350-20-004.

350-40-080. Hearings.

(1) The Commission will conduct hearings on every application accepted as complete by the Director.

(2) A general hearing on all current applications for the year, to consider public testimony and opinion on applications, may be set by the Commission. Any person may comment on the applications within time limits set by the Commission.

(3) A separate hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the application in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on an Urban Area boundary revision application pursuant to 350-40-007(3) may participate in the Urban Area boundary revision hearing by filing a Notice of Intervention with the Director within 20 working days of the date the Director's report is prepared, pursuant to 350-40-008. The Notice of Intervention shall also be served by mail upon the applicable county. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed boundary revision. The applicant shall be afforded an opportunity for rebuttal argument. The length of the hearing will vary depending on the complexity of the application.

(4) The Commission may seek additional information from any applicant before and during the hearing.

**Reviser's note:** The brackets and enclosed material in the text above occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

COLUMBIA RIVER GORGE COMMISSION
350-20

350-20-004. Review Standards and Guidelines.

(1) The Columbia River Gorge National Scenic Area Final Interim Guidelines, published by the Forest Service and dated June 30, 1987, are adopted by reference as amended in paragraph (2) below and declared to be a part of this rule. In reviewing major development actions and new residential development for consistency with the standards of section 6 and the purposes of P.L. 99-663, Chapter 3 of the Final Interim Guidelines, as amended in paragraph (2) below, shall be utilized.

(2) The Final Interim Guidelines identified in paragraph (1) above are amended as follows:

(a) The definition of agricultural lands shall be revised to read as follows: "Agricultural lands are those lands which are primarily used or are suitable for the production of crops, fruits or Christmas trees or the pasturing, grazing or feeding of livestock. Lands designated as open space by the Commission shall not be considered agricultural lands."

(b) The definition of forest lands shall be revised to read as follows: "Forest lands are those lands which are used for growing forest products or capable of producing in excess of twenty (20) cubic feet per acre per year of Douglas fir, Ponderosa pine or other merchantable tree species. Lands designated as open space by the Commission shall not be considered forest lands."

(c) The guidelines for existing uses shall be revised as follows: "When a structure is destroyed or partially destroyed, it will be considered an existing use when replaced in kind and in the same location within one year. The exterior color and reflectivity of replacement structures must be consistent with the scenic guidelines in Chapter III. Replacement of a structure or use that differs in size or location from the original shall be subject to a consistency determination. Replacement of a mobile home in a special management area with a modular or site-built home, to be used in the same manner and for the same purposes, shall be considered the continuation of an existing use except that it shall be subject to review for consistency with the guidelines on scenic resources in section B(1).

(d) An alteration to a structure which was built prior to November 17, 1986, and which already protrudes above the line of a bluff, cliff or skyline, may itself protrude above the line provided that:

1. the alteration does not increase the protrusion more than 50 percent as viewed from the key viewing area from which the structure is most prominently seen;

2. the altered structure, through a combination of color, landscaping and other mitigation measures, contrasts less with its setting than before the alteration; and

3. there is no practicable alternative way to alter the structure without increasing the protrusion.

## WSR 92-11-007
PERMANENT RULES
## OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 11, 1992, 11:28 a.m.]

Date of Adoption: May 11, 1992.

Purpose: These rules are updated to more effectively implement the provisions of chapter 39.19 RCW and to comply with the provisions of chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: Amending chapters 326-02 and 326-20 WAC.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to notice filed as WSR 92-07-103 on March 18, 1992.

Effective Date of Rule: Thirty days after filing.

May 11, 1992
James A. Medina
Director

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-02-010 PURPOSE. The purpose and intent of chapter 120, Laws of 1983, and of ((~~these rules~~)) Title 326 WAC is to provide the maximum practicable opportunity for increased participation by minority and women-owned and controlled businesses ((~~in participating~~)) in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector. This purpose will be accomplished by encouraging the full use of existing minority and women-owned and controlled businesses and the entry of new and diversified minority and women-owned and controlled businesses into the marketplace. These rules shall be applied and interpreted to promote this purpose.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-02-020 APPLICABILITY. ((~~This chapter~~)) Title 326 WAC applies to all applications for certification ((~~as a minority or women's business enterprise by the state of Washington~~)) and to all public works and procurement by state agencies and educational institutions: PROVIDED, That this ((~~chapter~~)) title does not apply where it is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state. In such a case, the conflicting portions of this chapter are inoperative solely to the extent of the conflict and with respect to the agencies directly affected.

AMENDATORY SECTION (Amending WSR 89-24-047, filed 12/1/89, effective 1/1/90)

WAC 326-02-030 DEFINITIONS. Words and terms used in ((~~these rules~~)) this title shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in ((~~these rules~~)) this title, or the context in which they are used

clearly indicates that they should be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Certified business" or "certified" means a business or the status of a business that has been examined by the Washington state office of minority and women's business enterprises and deemed to be a minority business enterprise (MBE), a women's business enterprise (WBE), a minority woman's business enterprise (MWBE), or a combination business enterprise (CBE).

(3) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(((~~3~~))) (4) "Combination ((~~minority and women's~~)) business enterprise" or "CBE" means a small business concern organized for profit, performing a commercially useful function, that is fifty percent owned and controlled by one or more minority men or MBEs certified by ((~~this~~)) the office and fifty percent owned and controlled by one or more nonminority women or WBEs certified by ((~~this~~)) the office. The owners must be United States citizens or lawful permanent residents.

(((~~4~~))) (5) "Commercially useful function" means the performance of real and actual services which are integral and necessary in the discharge of any contractual endeavor, and not solely for the purpose of obtaining certification or obtaining credit for participation goal attainment.

~~(((a) For purposes of certification, factors which may be considered in determining whether a business is or will be performing a commercially useful function include, but are not limited to, the following:~~

~~(i) Whether the business is or will be responsible for executing a distinct element of work in the performance of a contract; and~~

~~(ii) Whether principals or employees of the business actually perform, manage, and supervise the work for which the business is or will be responsible; and~~

~~(iii) Whether the business could be considered a "conduit," "front," or "pass-through" as defined in this section; and~~

~~(iv) Whether the minority and/or women owner(s) has the skill and expertise to perform the work for which the business is being, or has been certified.~~

~~(b) The manner in which a supplier does business will be examined by the office for purposes of certification and may be considered by state agencies and educational institutions in awarding a contract. Factors in addition to those in (a) of this subsection which indicate that a supplier is performing a commercially useful function include, but are not limited to, the following:~~

~~(i) It either assumes the actual and contractual responsibility for furnishing goods or materials and executes material changes in the configuration of those goods or materials; or~~

~~(ii) Is the manufacturer of those goods or materials; or~~

~~(iii) Before submitting the certification application, it has secured a contract or distributor agreement with a manufacturer to act as an authorized representative, and can pass on product warranties to the purchaser; and~~

~~(iv) Performs a distinct element of work in a manner that is consistent with common industry practice. Factors which may indicate that a firm is not performing a commercially useful function include, but are not limited to, the following:~~

~~(A) A minimum amount of inventory is not maintained;~~

~~(B) Billing and shipping arrangements are performed by nonowners or staff of nonowners;~~

~~(C) A significant amount of deliveries are shipped directly from the producer or manufacturer to the end user;~~

~~(D) The supplier does not take ownership of the product.~~

~~(5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.~~

~~(6) "Contract by contract basis" means a single contract within a specific class of contracts.~~

~~(7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.~~

~~(8) "Director" means the director of the office of minority and women's business enterprises.~~

~~(9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.~~

~~(10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and women-owned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis. In meeting their goals on either a contract by contract or a class of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of businesses in which MBE's and WBE's are underrepresented.~~

~~(11) "Goods and/or services" means all goods and services, including professional services.~~

~~(12) "Joint venture" means a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.~~

~~(13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:~~

~~(a) Black: Having origins in any of the black racial groups of Africa;~~

~~(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;~~

~~(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or~~

~~(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.~~

~~Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.~~

~~(14) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by this office. The minority owners must be United States citizens or lawful permanent residents.~~

~~(15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise, and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.~~

~~(16) "Office" means the office of minority and women's business enterprises of the state of Washington.~~

~~(17) "Procurement" means the purchase, lease, or rental of any goods or services.~~

~~(18) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.~~

~~(19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.~~

~~(20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by this office. The women owners must be United States citizens or lawful permanent residents.~~

~~(21)~~)) (6) "Common industry practices" means those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(((~~(22)~~))) (7) "Conduit" means a ((~~WBE, MBE, or combination MWBE~~)) certified business which agrees to be named as a subcontractor on a contract in which such ((~~WBE, MBE, or combination MWBE~~)) certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other ((~~non-MWBE~~)) noncertified business.

(((~~(23)~~))) (8) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.

(9) "Contract by contract basis" means a single contract within a specific class of contracts.

(10) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(11) "Corporate-sponsored dealership" means a business that does not meet the requirements for certification but is participating in a program specifically developed by a national or regional corporation to address the present-day issue of lack of opportunities for minorities or women in the dealership industry.

(12) "Director" means the director of the office of minority and women's business enterprises.

(13) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(14) "Front" means a business which purports to be((: ~~(a) A WBE~~)) eligible for certification but is not in fact legitimately owned ((~~or~~)) and controlled by ((~~a man or men; (b) a MBE but is owned or controlled by a nonminority person or persons; or (c) a combination MWBE but is owned or controlled by a man or men or by a nonminority person or persons to a greater extent than is allowed by WAC 326-02-030(3)~~)) minorities, women, or a combination thereof.

(((~~(24) "Pass-through" means a business which buys goods from a non-WBE, non-MBE, or noncombination MWBE and simply resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.~~

~~(25)~~))) (15) "Goods and/or services" means all goods and services, including professional services.

(16) "Joint venture" means a partnership of two or more persons or businesses created to carry out a single business enterprise for profit, for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(17) "Legitimately owned and controlled" means that minorities, women, or a combination thereof, own at least fifty-one percent interest in the business (unless the business qualifies as a corporate sponsored dealership under the provisions of subsection (11) of this section and WAC 326-20-050(4)); and the minorities, women, or combination thereof, possess and exercise sufficient expertise specifically in the firm's field of operation to make decisions governing the long-term direction and the day-to-day operations of the firm.

(18) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(((~~(26) "Supplier" means a business which provides or furnishes goods or materials, performs a commercially useful function, and is not considered a conduit, front, or pass-through.~~

~~(27)~~)) (19) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

(20) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the office. The minority owners must be United States citizens or lawful permanent residents.

(21) "Minority women's business enterprise" or "MWBE" means a small-business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority women and is certified by the office. The owners must be United States citizens or lawful permanent residents.

(22) "Office" means the office of minority and women's business enterprises of the state of Washington.

(23) "Pass-through" means a certified business which buys goods from a noncertified business and simply resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(24) "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(25) "Procurement" means the purchase, lease, or rental of any goods or services.

(26) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(27) "Regular dealer" means a certified business that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

(28) "Services," in the context of "goods and/or services," means all services including, but not limited to, client services, personal services, and purchased services as defined in RCW 39.29.006.

(29) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(30) "Supplier" means a manufacturer, regular dealer, broker, or packager that (a) provides or furnishes goods or materials; (b) performs a commercially useful function; and (c) is not considered a conduit, front, or pass-through.

(31) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(((~~(28) "Corporate-sponsored dealership" means a bona fide minority or women's business which meets the following standards in lieu of the fifty-one percent ownership criteria set out in subsections (14), (15), and (20) of this section, and meets the following standards in lieu of the factors used to evaluate control in WAC 326-20-080.~~

~~(a) The minority or women owner(s) have entered into a written agreement, contract, or arrangement with a national or regional corporation and has been granted a license to offer, sell or distribute goods or services at wholesale or retail, leasing, or otherwise use the name, service mark, trademark, or related characteristics of the sponsoring corporation.~~

~~(b) The capital investment for the dealership or business is jointly contributed by the minority or women owner(s) and the sponsoring corporation.~~

~~(i) The original investment contributed by the minority or women owner(s) may be less than fifty-one percent, but must constitute at least twenty-five percent of the capitalization investment (total required equity capital) in the dealership corporation.~~

~~(ii) A specified time limit of not more than ten years must be established, binding between the minority or women owner(s) and the sponsoring corporation, within which the buy-out of the corporate sponsor's interest is complete.~~

~~(c) If the sponsoring corporation retains majority voting rights and control of the board of directors, then the minority or women owner(s) must annually apply at least fifty percent of the net profit and bonuses toward the buy-out of the corporate sponsors' interest within the buy-out time limit established with the corporation.~~

~~(d) The minority or women owner(s) must show active participation in the decision-making process on the board of directors of the dealership.~~

~~(e) The minority or women owner(s) must have operational control, and as such have day-to-day management control of the dealership, with responsibility for sales, service volume, and profits.~~

~~(f) The sponsoring corporation must have specifically developed a national or regional corporate sponsored dealership program to address the present-day issue of lack of opportunities for minorities or women in the dealership industry, which includes such features as:~~

~~Capitalization assistance from the sponsoring corporation, on-going business operations training, technical assistance to the dealership owner, and a corporate sponsored minority and women's business program.~~

~~(g) The minority or women owner(s) must demonstrate that the relationship between the corporate sponsor and the minority or women's business was not formed for the primary purpose of achieving certification under chapter 39.19 RCW, or any similar provision of any ordinance, regulation, rule, or law.~~

~~(h) The minority or women owner(s) have prior business or management experience relating to the business being entered into as an owner.~~

~~(i) The minority or women owner(s) must be president of any corporation formed by the business.~~

~~(29) "Legitimately owned and controlled" for the purposes of determining whether a business is a minority business enterprise, a women's business enterprise, or a combination thereof, shall mean that women, minorities or a combination thereof shall possess:~~

~~(a) Ownership of at least fifty-one percent interest in the business, unless the minority and/or women's business qualifies as a corporate sponsored dealership under the provisions of WAC 326-02-030(28). The ownership shall be real and continuing, and shall go beyond the pro forma ownership of the business reflected in the ownership documents. The minority and/or women owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance and the form of the arrangements; and~~

~~(b) Control over management, interest in capital, interest in profit or loss and contributions to capital, equipment and expertise on which the claim of minority and/or women-owned status under this chapter is based. The business must be independent and the minority and/or women owner(s) must possess and exercise the legal power to direct the management and policies of the business and to make the day-to-day as well as major decisions on matters of management, policy, finances, and overall operations. If the owners of the business who are not minorities and/or women are disproportionately responsible for the operation of the business, then the business is not controlled by minorities and/or women. The minority and/or women owner(s) must control and manage the day to day operations of the business. The requirements of this shall not apply, if the minority/women's business qualifies as a corporate sponsored dealership under the provisions of WAC 326-02-030(28).~~)) (32) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by the office. The women owners must be United States citizens or lawful permanent residents.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-040 PROHIBITED ACTIVITIES WITH REGARD TO CHAPTER 39.19 RCW. (1) RCW 39.19.080 makes it unlawful for a person, firm, corporation, business, union, or other organization to:

((~~(1)~~)) (a) Prevent or interfere with a contractor's or subcontractor's compliance with this chapter, or any rule adopted under this chapter;

((~~(2)~~)) (b) Submit false or fraudulent information to the state concerning compliance with this chapter or any such rule;

((~~(3)~~)) (c) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a minority or women's business enterprise for the purpose of this chapter;

((~~(4)~~)) (d) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or women's business enterprise;

((~~(5)~~)) (e) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business entity that has requested certification as a minority or women's business enterprise;

((~~(6)~~)) (f) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this chapter;

((~~(7)~~)) (g) Knowingly make false statements that any entity is or is not certified as a minority or women's business enterprise for purposes of obtaining a contract governed by this chapter;

((~~(8)~~)) (h) To fail or refuse to comply with any provision of chapter 39.19 RCW or with a contract requirement established under this chapter.

(2) A certified business engages in prohibited activity when it fails to perform a commercially useful function on any public-sector contract or procurement. Failure to perform a commercially useful function occurs when a business:

(a) Functions as a conduit; or

(b) Functions as a pass-through; except brokers and firms operating in industries where such activity is common industry practice, e.g., insurance or real estate.

(3) A business that is deemed to be a switch business is also deemed to have engaged in prohibited activity.

NEW SECTION

WAC 326-02-045 FACTORS CONSIDERED IN DETERMINING PERFORMANCE OF COMMERCIALLY USEFUL FUNCTION. (1) In determining the performance of a commercially useful function, factors which may be considered include, but are not limited to, the following:

(a) Whether the work to be performed by the business is within the scope of work included in the Standard Industrial Classification code(s) under which the business

is listed in the directory of certified businesses published by the office or in the records of the office.

(b) Whether the business could be considered a conduit, front, or pass-through;

(c) Whether the minority and/or woman owner(s) has the skill and expertise to perform the work for which the business is being or has been certified;

(d) Whether the business is or will be responsible for executing a distinct element of work in the performance of a contract; and the principals or employees of the business actually perform, manage, and supervise the work for which the business is or will be responsible;

(2) In addition, a business that functions as a supplier shall:

(a) Be the manufacturer of the goods or materials or assume the actual and contractual responsibility for furnishing the goods or materials and execute material changes in the configuration of those goods or materials; or

(b) Prior to submitting an application for certification, secure a contract or distributor agreement with a manufacturer to act as an independent authorized representative capable of passing on product warranties to the purchaser.

(3) Factors which may indicate that a supplier is not performing a commercially useful function include, but are not limited to, the following:

(a) A minimum amount of inventory is not maintained.

(b) Billing and shipping arrangements are performed by nonowners or staff of nonowners.

(c) A significant amount of deliveries are shipped directly from the producer or manufacturer to the end user.

(d) The firm does not take ownership of the product.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-050 PENALTIES WHICH MAY BE IMPOSED. (1) The penalties under this section may be imposed by the office, or by the state agency or educational institution administering a contract or procurement within which a violation occurs. Nothing in chapter 39.19 RCW or this ((~~chapter~~)) title prevents the state agency or educational institution administering the contract from pursuing any procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

(2) Penalties which may be imposed include one or more of the following:

(a) Withhold payment until the violation is remedied;

(b) Debarment from contracting with the state for up to one year; debarment for up to three years may be imposed for willful repeated violations, exceeding a single violation;

(c) Suspension of the contract;

(d) Termination of the contract;

(e) Immediate suspension of the certification of a certified firm;

(f) Payment of civil penalties of up to five thousand dollars for each violation or up to ten percent of the amount of the contract; or

(g) Decertification.

(3) Penalties may be imposed on one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(4) Penalties shall be imposed by the office giving a written notice which is either served personally ((~~served upon~~)) or ((~~transmitted~~)) by certified mail, return receipt requested, to the person or ((~~entity~~)) business incurring the penalty. Except for suspension of certification, which is covered by WAC 326-02-090, the notice of the civil penalty shall be a final order of the office unless, within fifteen days after the notice is ((~~received~~)) served, the person incurring the penalty appeals the penalty by filing a notice of appeal with the office.

(5) If a notice of appeal is filed in a timely manner, ((~~a contested case hearing~~)) the office shall conduct a show cause review as outlined in WAC 326-20-171 or an adjudicative proceeding shall be conducted on behalf of the office by the office of administrative hearings((~~: The administrative law judge shall issue a proposed decision, with findings of fact and conclusions of law, and a recommendation on the size and nature of the penalty to be imposed, if any. The director may adopt the recommendations of the administrative law judge, or affirm, or reduce the penalty, and shall issue a final order setting forth the civil penalty assessed, if any. The director's order may be appealed to the superior court within thirty days of service of the order. Any penalty imposed under this section is due and payable upon the issuance of the final order by the office, whether or not an appeal to superior court is pursued~~)) in accordance with the provisions in chapter 326-08 WAC.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-060 FACTORS CONSIDERED IN DETERMINING PENALTIES. In determining the nature of the penalty and monetary amount, if any, of a penalty to be imposed, the factors which may be considered include, but are not limited to:

(1) The potential harm to the ((~~MWBE or non-MWBE firm~~)) certified or noncertified business;

(2) Potential harm to the state, due to delay or other problems;

(3) The potential for harm to the public;

(4) Whether the violation occurs in the context of particular contract;

(5) The stage or percent of completion of a contract at which the violation occurs;

(6) The timing of the discovery of the violation;

(7) The contracting history of the alleged violator;

(8) The extent to which the alleged violator has cooperated with the investigation;

(9) Whether there have been previous violations by the person.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-070 SUSPENSION OF CONTRACT. (1) The performance of a contract may be immediately suspended upon receipt of adequate evidence received by the office that the person has engaged in any of the prohibited activities described in WAC 326-02-040 and RCW 39.19.080.

(2) The decision of the office to suspend a contract is discretionary and will not be based on an unsupported allegation. Decisions to suspend shall be in the public interest, including the government's interest in doing business with firms that are responsible and ((~~the interest~~)) in preserving competition.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-080 SUSPENSION OF CERTIFICATION. The certification of a business ((~~certified under chapter 39.19 RCW and these regulations~~)) may be suspended for engaging in any of the activities prohibited by RCW 39.19.080 and WAC 326-02-040, upon a showing that immediate action is necessary to prevent harm to the public welfare.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-02-090 PROCEDURES FOR SUSPENSION, HEARING PROVIDED. (1) If the director determines that suspension of the certification of a ((~~firm~~)) business is necessary to prevent immediate harm to the public welfare, the ((~~suspended person or firm~~)) business will be notified by personal service or certified mail, return receipt requested, of the suspension and the reasons therefor. The suspension shall take effect immediately upon receipt of the notice. The suspended ((~~person or firm~~)) business will be entitled to a hearing pursuant to chapter 326-08 WAC, but a written request for hearing must be made within twenty days of receipt of the notice of suspension.

(2) After the hearing, the administrative law judge may recommend that:

(a) Suspension of certification remain in effect for up to one year;

(b) The suspension be removed; or

(c) That the ((~~firm~~)) business be decertified.

AMENDATORY SECTION (Amending Order 87-6, filed 8/27/87)

WAC 326-20-010 IN GENERAL. (1) Any business which meets the definition of a minority business enterprise, a women's business enterprise, a minority woman's business enterprise, or a combination minority and women's business enterprise or corporate-sponsored dealership as set forth in this title, is eligible to be certified by the state of Washington ((~~as a minority business enterprise, a women's business enterprise or a combination minority and women's business enterprise. A business owned and controlled by one or more minority females may be certified as both a MBE and a WBE~~)).

(2) It is not the intent of the program to encourage the participation of businesses owned and controlled by minorities and/or women who have not encountered practices which prohibited or limited their access to contract opportunities, markets, financing, and other resources, based on their race or sex.

(3) Notwithstanding the provisions in subsection (1) of this section, to be eligible for certification, any business applying for certification shall have obtained all licenses necessary to lawfully conduct business in the state of Washington.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-030 PROOF OF MINORITY STATUS. Each minority owner of a business applying for ((~~MBE or combination minority and women's business enterprise~~)) certification who is visibly identifiable as a minority shall submit with the MWBE application form a photograph or copy of documentation containing the owner's photograph. Each minority owner who is not visibly identifiable as a minority shall submit a copy of his or her birth certificate, tribal enrollment papers, or other document which shows that the owner meets the definition of "minority" as set forth in these rules. The final determination will be in the sole discretion of the office.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-040 PROOF OF WOMAN'S STATUS. Each woman owner of a business applying for certification ((~~as a WBE or as a combination minority and women's business enterprise must~~)) shall submit with the ((~~MWBE~~)) application form a copy of her birth certificate, valid driver's license, or other document which shows that the owner is a woman. The final determination will be in the sole discretion of the office.

AMENDATORY SECTION (Amending Order 87-6, filed 8/27/87)

WAC 326-20-050 PROOF OF OWNERSHIP OF BUSINESS. (1) All minority or women owners shall submit to the office proof of their ownership of the requisite percentage of the business at the time the application is submitted. Such proof shall consist of stock certificates, a notarized affidavit of stock ownership from the corporate treasurer, a partnership agreement, cancelled check used to purchase ownership, or other recognized proof of ownership. The ownership shall be real, substantial, and continuing, shall go beyond the pro forma ownership of the business reflected in the ownership documents, and shall be based on the owner's capital contribution. The minority and/or women owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance and the form of the arrangements.

(2) In cases of sole proprietorships or other cases where documentary proof of ownership is not available,

the minority or women owners shall so advise the office, which may undertake further investigation. The office may also require documents showing how and when the minority or women owners' interest in the business was acquired.

(3) The office may, for any reason, require any minority or women owners to provide additional proof of, or information concerning, ownership. The office may request additional information regarding separate ownership of a business including, but not limited to, a separate property agreement.

(4) Ownership of a corporate-sponsored dealership shall be evaluated by using the following standards ((~~set out in WAC 326-02-030(28)~~)):

(a) The minority or women owner(s) have entered into a written agreement, contract, or arrangement with a national or regional corporation and has been granted a license to offer, sell, or distribute goods or services at wholesale or retail, leasing, or otherwise use the name, service mark, trademark, or related characteristics of the sponsoring corporation.

(b) The capital investment for the dealership or business is jointly contributed by the minority or women owner(s) and the sponsoring corporation.

(c) The original investment contributed by the minority or women owner(s) may be less than fifty-one percent, but must constitute at least twenty-five percent of the capitalization investment (total required equity capital) in the dealership corporation.

(d) A specified time limit of not more than ten years must be established, binding between the minority or women owner(s) and the sponsoring corporation, within which the buy-out of the corporate sponsor's interest shall be complete.

(e) The sponsoring corporation must have specifically developed a national or regional corporate sponsored dealership program which includes such features as capitalization assistance from the sponsoring corporation, on-going business operations training, technical assistance to the dealership owner, and a corporate sponsored minority and women's business program.

(f) The minority or women owner(s) must demonstrate that the relationship between the corporate sponsor and the minority or women's business was not formed for the primary purpose of achieving certification under chapter 39.19 RCW, or any similar provision of any ordinance, regulation, rule, or law.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-20-060 COMMUNITY OWNERSHIP. An ownership interest arising in a nonapplicant spouse solely because of the operation of community property laws will not disqualify the applicant spouse from certification. Both spouses ((~~must~~)) shall certify that:

(a) Only one spouse participates in the management of the business.

(b) The nonparticipating spouse relinquishes control over his/her community interest in the subject business.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-070 COUNTING OWNERSHIP HELD IN TRUST. In determining whether the fifty-one percent ownership requirement is met, no stock or ownership held in trust shall be counted, except in the following cases:

(1) Where both the trustee and the beneficiary are minorities, or both are women, and the trustee meets the ((~~fifty-one percent~~)) control requirement; or

(2) Where the stock or ownership is held in an irrevocable trust for the benefit of a minority or a woman and the minority or woman beneficiary meets the ((~~fifty-one percent~~)) control requirement.

AMENDATORY SECTION (Amending Order 88-5, filed 5/31/88)

WAC 326-20-080 FACTORS CONSIDERED IN DETERMINING CONTROL. (1) The minority or woman owner(s) must possess and exercise managerial and operational control over the day-to-day affairs of the business.

(a) Managerial control. The minority or woman owner(s) has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and direction of the firm.

(b) Operational control. The minority or woman owner(s) has the demonstrable ability to independently make basic decisions pertaining to the daily operations of the business.

(2) Whether a minority or woman owner meets the control requirement ((~~as defined in WAC 326-02-030(29)~~)) is determined on an application-by-application basis. Office management, clerical, or other experience unrelated to the firm's field of operations, is insufficient to establish that the business is legitimately owned and controlled.

(3) Factors which may be considered in determining whether the minority or woman owner meets the control requirement include, but are not limited to, the following:

((~~(1)~~)) (a) Authority and restrictions as indicated in the articles of incorporation, bylaws, partnership agreements and/or other business agreements and documents;

((~~(2)~~)) (b) The financial interest and/or participation in any other business by any owner or key personnel;

((~~(3)~~)) (c) Past and current employment history of minority and women owners involved in the business;

((~~(4)~~)) (d) Members of the board of directors and corporate officers;

((~~(5)~~)) (e) Experience, training, and expertise of any owners and key personnel;

((~~(6)~~)) (f) Recent changes in ownership and/or control of the business;

((~~(7)~~)) (g) Financial obligation to and capital contributions from owners and nonowners of the business; and

((~~(8)~~)) (h) Documentation indicating who has ultimate authority to make policy and management decisions and to legally obligate the business.

((~~(9) Control of a corporate-sponsored dealership will be evaluated using the standards set out in WAC 326-02-030(28).~~))

(4) If persons who are not minorities or women are disproportionately responsible for the operation of the business, then the business is not eligible for certification.

(5) The requirements of this section shall not apply, if the business qualifies as a corporate-sponsored dealership under the provisions of WAC 326-20-050(4). Control of a corporate-sponsored dealership will be evaluated using the following standards:

(a) If the sponsoring corporation retains majority voting rights and control of the board of directors, then the minority or women owner(s) must annually apply at least fifty percent of the net profit and bonuses toward the buy-out of the corporate sponsors' interest within the buy-out time limit established with the corporation.

(b) The minority or women owner(s) must show active participation in the decision-making process on the board of directors of the dealership.

(c) The minority or women owner(s) must have and exercise managerial and operational control over the day-to-day management of the dealership, with responsibility for sales, service volume, and profits.

(d) The minority or women owner(s) must have prior business or management experience relating to the business being entered into as an owner.

(e) The minority or women owner(s) must be president of any corporation formed by the business.

AMENDATORY SECTION (Amending WSR 89-24-047, filed 12/1/89, effective 1/1/90)

WAC 326-20-081 INTERTWINEMENT. To be eligible for certification, a ((~~firm~~)) business must be independent. ((~~Significant~~)) Intertwinement with a noncertified ((~~firm~~)) business may be grounds for denial or decertification of a ((~~firm~~)) business. The office will determine whether a ((~~firm~~)) business is ((~~significantly~~)) intertwined with a noncertified ((~~firm~~)) business by looking for factors which include, but are not limited to, the following:

(1) Shared ownership((~~;~~));

(2) Common directors or partners((~~;~~));

(3) Shared equipment, facilities, resources, or employees((~~;~~));

(4) Beneficial financial arrangements which indicate less than arms length transactions with a noncertified ((~~firm;~~)) business;

(5) Overdependency on a noncertified ((~~firm~~)) business to obtain and perform work((~~;~~));

(6) Such an identity of interest exists between the ((~~firm~~)) business seeking certification and a noncertified ((~~firm~~)) business that an affiliation may be presumed((~~;~~)); and

(7) The degree to which financial, equipment, leasing, business and other relationships with noncertified ((~~firms~~)) businesses vary from normal industry practice.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-092 SMALL BUSINESS CONCERN REQUIREMENT. (1) In addition to meeting the ownership and control requirements of chapter 39.19 RCW and these regulations, ((~~in order to be entitled to certification under chapter 39.19 RCW, a firm~~)) a business must qualify as a small business concern ((~~as defined in WAC 326-20-093~~)) to be eligible for certification or recertification.

(a) Except as otherwise provided in WAC 326-20-096 (for certain federal projects), a small business concern is a business which is independently owned and operated, is not dominant in its field of operations, and which does not exceed the size limitations as set forth in the current table of Standard Industrial Classification (SIC) codes and corresponding industry size standards as adopted by the United States Small Business Administration in Title 13 Code of Federal Regulations, Part 121, on file in the office.

(b) The number of employees or amount of annual receipts listed as the size standard for each SIC code indicates the maximum allowed for a business (including its affiliates) to qualify as a small business concern.

(c) The office's determination of whether a business qualifies as a small business concern shall be, whenever possible, based on criteria that is consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. 632, and its implementing regulations.

(2) A ((~~firm~~)) business which exceeds the small business size limits after certification by the office shall be subject to decertification.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-094 ((~~APPLICATION OF SIZE STANDARD~~)) ASSIGNMENT OF STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE. (1) The office will determine which SIC code an applicant ((~~firm~~)) falls under based on information submitted by the ((~~firm~~)) business. The office will prepare conversion tables showing the department of general administration's commodity code designations ((~~listed in the MWBE directory and the corresponding SIC codes, and~~)), the codes developed by the Construction Specifications Institute ((~~with~~)), and the corresponding SIC codes listed in the directory of certified businesses as described in WAC 326-20-190.

(2) ((~~If an applicant's business activities encompass two or more SIC codes, the particular size standard to be applied will be based on the primary industry classification of the applicant concern. In determining what is the primary industry in which an applicant, including its affiliates, is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industry areas in which a concern is operating for the most recently completed fiscal year of the concern. Other factors (e.g., patents, contract awards, assets) may be considered.~~

~~(3)~~)) In the event ((~~a firm~~)) the business plans to expand the areas in which it ((~~does business~~)) operates, it must notify the office in writing at least thirty calendar days before the effective date of such expansion.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-095 DETERMINATION OF FIRM SIZE. (1) At the time of application for certification, ((~~and again at each renewal, a firm~~)) a business must demonstrate to the office that it is a small business concern. The office((~~, in turn, will~~)) may verify that ((~~each firm qualifies as~~)) the business continues to be a small business concern, once certified, at any time. In verifying the applicant's size, the office will review the annual financial statements and other relevant information.

(2) ((~~The size of the firm, including its affiliates, will be determined as of the time of application for certification, and at the time of each renewal of certification.~~)) Affiliates. Except as otherwise provided in this chapter, businesses are affiliates of each other when either directly or indirectly:

(a) One controls or has power to control the other; or

(b) A third party or parties controls or has the power to control both; or

(c) Such an "identity of interest" exists between or among them that affiliation may be presumed.

(3) Annual receipts. Where the maximum size standard is set by reference to "annual receipts," a business that exceeds the annual receipts in that standard is not eligible for certification. Annual receipts includes all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term "receipts" excludes proceeds from sales of capital assets and investments, proceeds from transactions between a concern and its domestic and foreign affiliates, proceeds from payments of notes receivable and accounts receivable, and amounts collected as an agent for another, such as gross bookings on which a commission is earned (in which case only the commission earned would constitute revenue) or such as taxes collected for remittance to a taxing authority.

(4) Period of measurement.

(a) The size of a business that has completed three or more fiscal years will be determined by averaging the annual receipts of the business for each of the most recent three years.

(b) The size of a business that has completed less than three fiscal years will be determined by computing the average of the annual receipts from the time the business was formed as follows: Total revenues compiled over the period divided by the number of weeks, including fractions of a week, multiplied by fifty-two.

(d) Method of determining annual receipts. Revenue may be taken from the regular books of account of the concern. If the office so elects or the firm has not kept regular books of account or the Internal Revenue Service has found such records to be inadequate and has reconstructed income of the concern, then revenue as shown on the Federal Income Tax return of the concern may be used in determining annual receipts along with other information the office deems relevant.

(4) Number of employees. Where the size standard is "number of employees" size eligibility requires that the concern may not exceed the number of employees in that standard.

(a) "Number of employees" means that average employment of the concern, including the employees of its domestic and foreign affiliates, based upon employment during each of the pay periods for the preceding completed twelve calendar months.

(b) In computing average employment, part-time and temporary employees are counted as full-time employees for each applicable pay period.

(c) If a concern has not been in business for twelve months, "number of employees" means the average employment of the concern, including its affiliates, during each of the pay periods during which it has been in business.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-096 ((~~STURAA PROJECT~~)) SIZE STANDARD. (1) No business, regardless of its primary SIC code, is eligible for certification if it exceeds the largest annual revenue limit contained in 13 Code of Federal Regulations, Part 121, on file in the office.

(2) In determining what is the primary industry in which an applicant (including its affiliates) is engaged, primary consideration shall be given to the distribution of receipts, employees and costs in the differing industry areas in which the business operated during its most recently completed fiscal year. Other factors (e.g., patents, contract awards, assets) may be considered.

(3) If the activities of the business encompass two or more SIC codes, the first SIC code listed in the directory is the primary industry classification of the business.

(4) A firm which exceeds the small business size limits after certification by the office shall be subject to decertification.

(5) For purposes of utilization on projects funded by the Federal Highway Administration or under The Surface Transportation and ((~~Urban~~)) Uniform Relocation Assistance Act of 1987, (P.L. 100-17, or STURAA) the maximum dollar size standard set out in STURAA and 49 CFR Part 23 ((~~of $14 million average annual gross receipts over the preceding three fiscal years~~)) as adjusted for inflation, shall apply, even if the size standard would otherwise be set by reference to number of employees. ((~~The $14 million figure~~)) This standard is a ceiling ((~~and firms~~)). Certified businesses are still subject to applicable lower limits on business size as established by the United States Small Business Administration and these regulations.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-098 APPLICABILITY OF FEDERAL REGULATIONS. Whenever issues arise regarding whether a ((~~firm~~)) business qualifies as a small business concern which cannot be resolved by reference to these regulations, federal regulations adopted by the United States Small Business Administration at 13 CFR 121 shall provide guidance to resolve such issues.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-20-110 APPLICATION PROCESS. (1) The office will develop and make available an application form for certification under chapter 39.19 RCW, and WAC 326-20-010 ((~~and 326-20-020~~)). The application form may be modified at any time. The form will solicit enough information to determine whether the applicant is eligible for ((~~MWBE~~)) certification for state-funded projects and may include supplemental questions necessary to determine whether the applicant is eligible for certification for a specific federally-funded project. As part of its investigation, the office may require minority and women owners to provide information in addition to that requested on the application forms.

(2) Where additional information is required from the applicant business to complete the investigation, the office may request the information ((~~by certified letter~~)) in writing and may impose a time limit of not ((~~less than 30~~)) more than twenty days in which the applicant must respond. The letter shall include notice to the applicant that, if the applicant fails to provide the information within the time requested, the file will be closed administratively. If all the requested information is not received by the office within the ((~~30~~)) twenty days, the office may administratively close the file. The applicant will be notified in writing that the file has been administratively closed.

(3) Upon timely receipt of a written request for extension of the time to respond to the request for additional information, ((~~received by OMWBE prior to expiration of the 30-day time period,~~)) an extension of time to respond may be granted by the director. A showing of extenuating circumstances may be required, and granting of such request for extension is in the sole discretion of the director.

(4) Administrative closure means that the file is placed in inactive status, and further processing of the application is suspended. An applicant may petition the ((~~agency~~)) office for reopening or reactivation of the application file, by written request to the director. Requests to reopen will be granted in the sole discretion of the ((~~agency~~)) director. The applicant will be notified in writing of the director's decision to grant or deny the request to reactivate the file. If the request is denied, the applicant may ((~~resubmit an~~)) submit a new application ((~~pursuant to WAC 326-20-220~~)): PROVIDED, That an applicant may not file more than one additional application within a year from the date of the closure. If the file is administratively reopened and processing resumed, the application will be processed as if it had been received on the date the request to reopen the file is granted by the director.

AMENDATORY SECTION (Amending Order 85-9, filed 9/26/85)

WAC 326-20-115 SIGNATURES OF APPLICANT BUSINESS OWNERS. An application for certification must be signed under oath by all individuals claiming an ownership interest in the business regardless of the structure of the applicant business. Upon written request, ((~~OMWBE~~)) the office may accept the affidavit of a corporate officer or other designated representative, identifying the stockholders or owners by sex and race, and providing such other information as the office may require.

AMENDATORY SECTION (Amending Order 85-6, filed 7/2/85)

WAC 326-20-120 SUBMITTAL OF FORMS. Application forms shall be submitted by mail or in person to the office at the following address:

STATE OF WASHINGTON
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
((~~406 South Water MS: FK-11~~))
PO BOX 41160
Olympia, WA 98504-1160

The minority or woman owner shall be responsible for ensuring that the form is complete and accurate and is properly delivered to the office. The applicant should keep a copy of the completed form and all documents submitted with the form for its own reference.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-130 PROCESSING APPLICATIONS—TIME. The office will process all applications as promptly as its resources permit. The office ((~~cannot~~)) does not guarantee that any application will be processed within any certain time period and the inability to process an application by a certain time shall not subject the office or the state to liability.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-20-140 DUTY TO COOPERATE. The owners shall have the duty to cooperate fully in the office's investigation of the application, including promptly submitting any additional information requested by the office. This duty shall continue after the business is certified. In addition to any other penalties provided by law, the submission of false information to the office in connection with an application for certification or renewal of certification shall be grounds for denial of certification, or decertification.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-150 ON-SITE INVESTIGATIONS. The office may, whenever it deems necessary, conduct ((an)) unannounced on-site investigations ((of an applicant's)) into the operations of a business. By submitting the ((MWBE)) certification application form ((the)), an applicant agrees that the office may conduct such investigations at any time.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-160 BURDEN OF PROOF. The applicant ((business)) shall have the burden of proving to the satisfaction of the office that it is eligible for certification.

AMENDATORY SECTION (Amending Order 85-2, filed 3/8/85)

WAC 326-20-170 DECISION. The office shall notify the applicant business by mail of its decision to grant or deny certification promptly after the decision has been made. The decision shall indicate whether the certification is for the state program, a federal program or both. Where the office has denied the application, the decision shall set forth the bases for denial. Where the office has denied certification because the ((women or minority owners)) business did not meet ((the ownership)) one or more of the eligibility criteria, this shall not preclude the office from later denying the application on additional bases ((following resubmittal)) after further review.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-171 DENIAL OF CERTIFICATION—SHOW CAUSE REVIEW. (1) If the office has reached the conclusion that an application for certification should be denied, the office shall notify the applicant in writing((, by certified mail,)) of its denial of certification. Within ((thirty)) twenty days of receipt of this notification, the applicant must either:

(a) Submit a written request for show cause review by the director or designee, containing the information specified in subsection (2) of this section; or

(b) Submit a written request for ((a contested case hearing)) an adjudicative proceeding, pursuant to WAC 326-08-015.

(2) A request for show cause review must set forth in detail the reasons the applicant believes the office's decision to deny certification is in error and include any additional information and documentation the applicant has to offer.

(3) When an applicant requests a show cause review, the finality of the denial for appeal purposes is stayed until the show cause review is complete.

(4) Upon receipt of a timely request for a show cause review the office will review any additional information provided by the applicant, and may conduct further investigation, and/or schedule a meeting with the applicant.

(5) The office will notify the applicant ((by certified mail)) in writing of its decision either to affirm the denial or to grant certification. This notification is considered final for purposes of WAC 326-08-015.

(((6) If a change in business circumstances occurs after the reconsideration period, then the applicant must submit a new application pursuant to WAC 326-20-220, and is not entitled to appeal the denial of the application in question on the basis of the change in business circumstances.

(7) "Reconsideration period," for purposes of this section, shall mean the thirty days after receipt of the denial letter, described in subsection (1) of this section plus any additional time authorized by the director in writing.))

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-172 DECERTIFICATION OF FIRMS. (1) A business may be decertified at any time the office determines that the business does not meet the current criteria for eligibility. A certified business shall notify the office, in writing, within thirty calendar days of any changes in its size, ownership, control, or operations. Failure to provide such notice in a timely manner may lead to decertification.

(2) When the office has determined that a certified ((MWBE)) business (a) no longer meets the certification criteria or ((the certified MWBE fails)) (b) failed to supply additional information requested by the office in a timely manner, or (c) failed to give timely notice of changes, the office will notify the ((firm)) business in writing of its intent to decertify the ((firm)) business.

(((2))) (3) When a certified ((MWBE)) business notifies the office that it is no longer in business, has sold the business, or no longer wishes to remain certified, or when the certified ((MWBE)) business fails or refuses to return the renewal of certification form, the office will notify the ((firm)) business in writing of its decertification. This notification is final for purposes of appeal((;)) pursuant to WAC 326-08-015.

(((3))) (4) Upon receipt of an "intent to decertify" letter, the ((MWBE)) business must either:

(a) Submit a written request for a show cause review by the director which meets the criteria set out in (c) of this subsection; or

(b) Submit a written request for ((a contested case hearing)) an adjudicative proceeding pursuant to WAC ((326-08-018)) 326-08-015.

(c) The request for show cause review must be received by the office within ((thirty)) twenty calendar days of receipt of the notice of intent to decertify the firm. The ((MWBE's)) request for a show cause review must set forth the reasons the ((MWBE)) business believes the office's decision to decertify is in error and must include any additional information and documentation the business has to offer.

((~~(4)~~)) (5) If the office has not received a request for a show cause review nor any additional written documentation within ((~~thirty~~)) twenty days of receipt of the "intent to decertify" letter, the decision to decertify becomes final, with no further rights to contest or appeal the decision.

((~~(5)~~)) (6) Upon receipt of the request for a show cause review, the office will review the request and any additional information provided and may conduct further investigation and/or request that the ((~~MWBE~~)) owner(s) attend a show cause meeting ((~~with the director~~)). The office will thereafter notify the ((~~MWBE by certified mail~~)) business in writing of its decision to either affirm or reverse its intent to decertify the ((~~firm~~)) business. This decertification decision is considered final for purposes of WAC 326-08-015.

((~~(6)~~)) (7) If a show cause review is requested and the decision to decertify is affirmed, any aggrieved party may request ((~~a contested case hearing~~)) an adjudicative proceeding pursuant to WAC 326-08-015. The request must be made in writing and must be made within ((~~thirty~~)) twenty days of receipt of the office's decision affirming the decertification decision.

((~~(7)~~)) (8) If the decision to decertify is appealed, the business shall remain certified until:

(a) The time provided by WAC 326-08-015 for appeal of the decision to decertify has expired without action by the ((~~MWBE~~)) business; or

(b) The entry of a final decertification order issued by the director pursuant to WAC 326-08-130.

(9) Decertification shall be effective immediately upon the occurrence of (a) or (b) of this subsection, and will not be stayed pending review by any court.

AMENDATORY SECTION (Amending Order 88-9, filed 10/24/88)

WAC 326-20-173 EXPIRATION OF CERTIFICATION UPON DEATH OR DISABILITY OF OWNER OF CERTIFIED BUSINESS. (1) Upon death or commencement of long-term disability of the minority or woman owner of a certified business ((~~certified by the office~~)), the guardian of the disabled owner, the executor of the owner's estate, or other person shall notify ((~~OMWBE~~)) the office in writing within thirty days of the death or documented disability. All notifications of long-term disability shall be documented by a statement from a qualified physician.

(2) "Long-term disability," for purposes of this section, shall mean the permanent inability to work, or inability to control the day-to-day operations of the business for a period of three consecutive months (ninety days or more), including both mental or physical incompetence.

(3) The certification of a ((~~firm~~)) business shall expire thirty days after receipt by the office of a notice of a death or documented disability of the owner of ((~~a certified firm. State agencies may continue to count the firm towards goal attainment only for those contracts awarded prior to the date of death or onset of disability~~)) the business. Upon expiration of certification, the office shall notify the firm, in writing, that it has been decertified. The decertification decision will be considered final for purposes of WAC 326-08-015.

((~~(4) The office shall be notified of any transfer of ownership or substantial ownership interest which occurs within the six months following the death or onset of disability. The office may require the new owners to provide additional information, including requiring submission of a new application form. If transfer of ownership or substantial ownership interest occurring within six months of the date of death or date of documented disability results in majority ownership or control by nonfemales or nonminorities, where applicable, the firm shall be decertified by the office.~~))

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-180 EFFECT OF CERTIFICATION. Certification as a MWBE shall have the following effects:

(1) Certification ((~~as a MWBE~~)) shall entitle state agencies, educational institutions, and local government jurisdictions to ((~~utilize the MWBE~~)) count the business toward meeting their ((~~MWBE~~)) goals under this chapter ((~~or~~)), local legislation((~~. Certification as a MWBE for a federal program shall entitle state agencies, educational institutions, and local government jurisdictions to utilize the MWBE toward meeting the MWBE goals under those programs~~)), and that require the participation of disadvantaged business enterprises. Certification shall be effective as of the date the decision is made in writing((~~:~~

~~(2) A firm may be decertified at any time the office determines that the MWBE does not meet the current criteria for eligibility for certification. The MWBE shall notify the office in writing within thirty calendar days of any changes in its size, ownership, control, or operations which may affect its continued eligibility as a MWBE. The duty of a business to cooperate with OMWBE investigation and the consent of a business to on-site investigation by OMWBE created in WAC 326-20-140 and 326-20-150 shall continue after a business is certified by OMWBE~~)) and will remain in effect for three years; except that the certification of DBEs shall be renewed annually.

(2) Certification does not constitute compliance with any other laws or regulations, including contractor registration or prequalification, and does not relieve any business of its obligations under other laws or regulations. Certification does not constitute any determination by the office that the firm is responsible or capable of performing any work.

AMENDATORY SECTION (Amending Order 88-5, filed 4/18/88)

WAC 326-20-185 RECERTIFICATION. ((~~(1) Certification is effective for two years.~~)) The office ((~~will~~)) may require ((~~of all certified firms and/or of selected certified firms~~)) any certified business to submit annual notarized statements regarding changes in the information provided during the initial certification process. The office will generally renew the certification as

long as the ((firm)) business continues to meet the eligibility criteria((;)); the business provides evidence of some level of activity e.g., gross receipts or evidence of continuing efforts to promote the business; and there have been no determinations that the ((firm)) business has violated chapter 39.19 RCW or ((this chapter)) its implementing rules in Title 326 WAC. Debarment of a ((firm from contracting with)) business by the state or one or more ((state or)) federal agencies or local government jurisdictions may be grounds for nonrenewal of ((certification)) decertification.

(((2))) Each certified ((firm)) business must submit a statement of present status prior to expiration of its ((two-year)) three-year certification. The statement form will be provided to the certified business sixty days before expiration of its certification. Failure to return the completed form within thirty days may lead to decertification by expiration.

(((3) Certification as a MWBE does not constitute compliance with any other laws or regulations, including contractor registration or prequalification, and does not relieve any firm of its obligations under other laws or regulations. Certification as a MWBE does not constitute any determination by the office that the firm is responsible or capable of performing any work.))

AMENDATORY SECTION (Amending Order 85-2, filed 3/8/85)

WAC 326-20-190 ((STATE MWBE)) DIRECTORY OF CERTIFIED BUSINESSES. The office will maintain a directory of certified ((MWBE's)) businesses as follows:

(1) The office will maintain a ((complete)) directory of ((all MWBE's)) businesses certified by the office for state projects and for federally-funded projects.

(2) The office will update and compile the directory into a form suitable for distribution annually and may issue supplements on a more frequent basis. ((The office will include in the supplements a list of those MWBEs removed from the list of certified firms at the conclusion of the administrative hearing process.))

(3) The ((state MWBE)) directory will be available for purchase from the office at a reasonable cost. One copy will be made available to each state agency and educational institution at no charge. Copies will be provided to the state library.

(4) ((Bidders and others proposing to enter into contracts with state agencies and educational institutions shall have the responsibility of ensuring that firms proposed to be used by them toward MWBE goals are certified. State agencies and educational institutions contracting directly with a purported MWBE shall have the responsibility of ensuring that the firm is certified.

(5))) Information concerning the status of a ((firm as a MWBE)) business may be obtained by contacting the office during designated working hours.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-20-220 RESUBMISSION OF APPLICATIONS. (1) ((An applicant which has withdrawn its application or whose application has been denied may file a new application)) A business which withdraws its application, is denied certification, or has been decertified, may be required to submit a new application or to submit additional documentation if there has been a substantial change in ownership, control, or organization of the business. However, no business may file more than two applications in any calendar year.

(2) ((An applicant which has experienced a substantial)) A business which makes a change in ownership, control, or organization of the business after ((the reconsideration period shall not be entitled to certification based on such changed circumstances, and must file a new application)) denial or decertification is not entitled t o appeal the denial or decertification on the basis of that change.

(((3) "Reconsideration period," for purposes of this section, shall mean the 30 days after receipt of the denial letter, described in WAC 326-20-175(1), or the date of the show cause meeting if requested pursuant to WAC 326-20-175(1), plus any additional time authorized in writing by the director.))

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|---|---|
| WAC 326-20-020 | FEDERALLY FUNDED PROJECTS. |
| WAC 326-20-091 | SIZE STANDARDS—PURPOSE. |
| WAC 326-20-093 | DEFINITIONS. |
| WAC 326-20-097 | CHANGE IN FIRM SIZE. |
| WAC 326-20-200 | COMPLAINTS. |

## WSR 92-11-008
### EMERGENCY RULES
### DEPARTMENT OF FISHERIES

[Order 92-30—Filed May 11, 1992, 3:56 p.m., effective May 16, 1992, 12:01 a.m.]

Date of Adoption: May 11, 1992.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The spot shrimp resource in northern Shrimp District One requires protection. Release of spot shrimp from this area will facilitate recovery. Reducing the number of pots per fisher will ease fishing pressure on the shrimp stocks. The commercial

exclusion zone will reduce commercial-recreational conflicts and promote an orderly fishery. Requiring reporting of all catch and accelerated harvest logs provides for better management.

Effective Date of Rule: May 16, 1992, 12:01 a.m.

May 11, 1991 [1992]
Joseph R. Blum
Director

NEW SECTION

*WAC 220-52-05100L COMMERCIAL SHRIMP—PUGET SOUND—SHRIMP DISTRICT ONE. Notwithstanding the provisions of WAC 220-20-010(4), WAC 220-52-051, and WAC 220-52-075, effective May 16, 1992 until further notice it is unlawful to fish for or possess shrimp taken from Shrimp District One except as provided for in this section:*

*(1) Open to commercial shrimp fishing May 16, 1992 until further notice.*

*(2) Commercial shrimp gear is limited to 25 pots per fisher, no minimum mesh size.*

*(3) Commercial shrimp fishing is prohibited in waters bounded by a line beginning at the entrance of the Cape George marina and projected southwesterly to the easternmost point of Diamond Point, thence southeasterly to the westernmost tip of Beckett Point, thence north following the shore to the point of origin.*

*(4) All spot shrimp taken from the waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A that are within Shrimp District One (District One-Area 25 waters) must be released immediately. Shrimp pots in District One-Area 25A waters may not be lifted while fishers have spot shrimp aboard that were taken in Area 25E or elsewhere.*

*(5) All shrimp taken from Shrimp District One under commercial license must be reported on State of Washington Fish Receiving Tickets, either through sale to a licensed wholesale dealer, or through the shrimp fisher having a wholesale dealer's license and reporting the catch as an original receiver.*

*(6) Shellfish harvest logs maintained pursuant to WAC 220-52-075 by fishers fishing for shrimp in Shrimp District One must be submitted bi-weekly, with the log for activity through the 15th of each month received by the department no later than the 25th day of the month, and the log for activity through last day of the month received by the department no later than the 10th day of the following month.*

*(7) Bouy and line requirements in WAC 220-52-051 remain unchanged.*

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 92-11-009
PERMANENT RULES
## DEPARTMENT OF HEALTH
## (Chiropractic Disciplinary Board)
[Order 270B—Filed May 11, 1992, 4:12 p.m.]

Date of Adoption: April 16, 1992, 1:00 p.m.

Purpose: To set fees for the Chiropractic Peer Review Committee.

Statutory Authority for Adoption: RCW 18.26.110.

Other Authority: RCW 18.26.340.

Pursuant to notice filed as WSR 92-06-065 on March 3, 1992.

Effective Date of Rule: Thirty-one days after filing.

April 16, 1992
John W. Day D.C.
Chair

NEW SECTION

WAC 246-807-480 PEER REVIEW FEES. The Peer Review Committee shall conduct the reviews as provided by RCW 18.26.340 and 18.26.350. At the time of submission for review, the applicant shall pay a fee of one-hundred fifty dollars. If the time for processing the review exceeds one hour, the Peer Review Committee shall assess additional fees in the amount of fifty dollars per hour of review process, not to exceed four-hundred fifty dollars total.

## WSR 92-11-010
WITHDRAWAL OF PROPOSED RULES
## LOTTERY COMMISSION
[Filed May 11, 1992, 4:23 p.m.]

Pursuant to WAC 1-21-060, notice is hereby provided that the proposed amendment to WAC 315-31-060 filed in WSR 92-08-093 is hereby withdrawn.

Evelyn Y. Sun
Director

## WSR 92-11-011
PERMANENT RULES
## DEPARTMENT OF FISHERIES
[Order 92-28—Filed May 12, 1992, 8:46 a.m.]

Date of Adoption: April 29, 1992.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-48-005, 220-48-042, and 220-48-052.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 92-06-092 on March 4, 1992; and WSR 92-08-079 on March 31, 1992.

Effective Date of Rule: Thirty-one days after filing.

April 29, 1992
Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 85-24, filed 4/1/85)

WAC 220-48-005 PUGET SOUND BOTTOMFISH—GENERAL PROVISIONS. (1) It is unlawful to ((~~retain for commercial purposes~~)) possess any English sole less than 12 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((~~except Areas 28A, 28B, 28C, and 28D~~)).

(2) It is unlawful to ((~~take, fish for, or~~)) possess ((~~for commercial purposes~~)) any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(3) It is unlawful to ((~~take or~~)) possess lingcod taken ((~~for commercial purposes~~)) with any commercial gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 24A, 24B, 24C, 24D, 25B, 25C, 25D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to ((~~retain for commercial purposes~~)) possess any lingcod less than ((~~22~~)) 26 inches in length or greater than 40 inches in length taken by any commercial ((~~bottomfish~~)) gear in all state waters east of the mouth of the Sekiu River.

(5) It is unlawful to ((~~take or~~)) possess lingcod taken ((~~for commercial purposes~~)) with any commercial gear from December 1 through April 14 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area((~~s 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, 25E and~~)) 29.

(6) It is unlawful to possess lingcod taken by any commercial gear from June 16 through April 30 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, and 25E.

(7) It is unlawful to ((~~take, fish for or~~)) possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

WAC 220-48-042 COMMERCIAL JIG—SEASONS. It shall be unlawful to ((~~take,~~)) fish for((~~, and~~)) or possess bottomfish taken for commercial purposes with commercial jig gear ((~~except in the following~~)) in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((~~during the seasons designated below:~~

~~(1) Areas 20A, 21A, 21B, 23A, and 23B = Open April 15 through November 30.~~

~~(2) Areas 23C and 23D = Open December 1 through April 14.~~

~~(3)~~)) except: Area 29 – Open all year.

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

WAC 220-48-052 ((~~TROLL LINES~~—))BOTTOMFISH TROLL—SEASONS. (1) It is unlawful to ((~~take,~~)) fish for((~~, and~~)) or possess bottomfish((~~, unless otherwise provided, with troll lines~~)) taken for commercial purposes with bottomfish troll gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except ((~~in the following Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:~~

~~(a) Areas 20A, 21A, 21B, 23A, and 23B = Open April 15 through November 30.~~

~~(b)~~)): Area 29 – Open all year.

(2) It is unlawful to ((~~take,~~)) fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license((~~, provided;~~)).

(3) In any waters of Puget Sound it is lawful to retain for commercial purposes bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery, except lingcod during closures provided in WAC 220-48-005.

## WSR 92-11-012
### PERMANENT RULES
### DEPARTMENT OF FISHERIES
[Order 92-19—Filed May 12, 1992, 8:51 a.m.]

Date of Adoption: March 6, 1992.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-116, 220-56-156, 220-56-195, 220-56-205, 220-56-235, 220-56-240, 220-56-250, 220-56-285, 220-56-310, 220-56-315, 220-56-320, 220-56-335, 220-56-350, 220-56-360, 220-56-380, 220-56-400, 220-57-160, 220-57-175, 220-57-205, 220-57-210, 220-57-255, 220-57-385, 220-57-405, 220-57-425, 220-57-430, 220-57-435, 220-57-450, 220-57-455, 220-57-460, 220-57-465, 220-57-490, and 220-57A-180.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 92-03-151 on January 22, 1992.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-56-145, not adopted; WAC 220-56-156, delete provision allowing Canadian limit if documentation of previous Canadian landing established. Canadian limits and seasons on salmon, many of which are of Washington origin, conflict with Washington limits and seasons. Conservation of the state resource and facilitation of enforcement require that Washington limits and seasons be adhered to; WAC 220-56-160, not adopted; WAC 220-56-235, allow one lingcod of any size taken by spearfishing. Prohibit gaffing lingcod in Areas 5-13; WAC 220-56-240, adopt 60 inch maximum length. Prohibit possession of personal use sturgeon greater than 60 inches in length, regardless of origin. Oregon size limits allow harvest of broodstock sturgeon, which are needed to replace the sturgeon resource in Washington waters. Conservation of the state resource and facilitation of enforcement require prohibition of possession of sturgeon greater than 60 inches in length, regardless of origin; WAC 220-56-282, not adopted; WAC 220-56-310, abalone common name used, increased Dungeness crab limit not adopted; WAC 220-

56-315, Swinomish slough crab closure not adopted; WAC 220-56-350, adjust beach closures; WAC 220-56-380, adjust beach closures; WAC 220-57-430, add closed period in October, add coho release provision; WAC 220-57A-180, change "yards" to "feet"; WAC 220-56-350, retitle as "Clams other than razor clams, cockles, borers and mussels; and WAC 220-56-235, retitle subsection (2) Inner Puget Sound (Catch Record Card Areas 5 through 13) for clarity.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1992
Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 89-26, filed 4/27/89)

WAC 220-56-116 SALMON—BARBLESS HOOKS. (1) Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.

(2) It is unlawful to use barbed hooks while angling for salmon in all marine waters of Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of a line drawn true north-south through Buoy 10 except that it is lawful to use barbed hooks when fishing from the North Jetty at the mouth of the Columbia River.

AMENDATORY SECTION (Amending Order 90-22, filed 3/22/90, effective 4/22/90)

WAC 220-56-156 LANDING CANADIAN ORIGIN FOOD FISH AND SHELLFISH. It is unlawful to land in any Washington state port shellfish or food fish taken for personal use from Canadian waters unless the person landing the shellfish or food fish possesses a Canadian sport fishing license and catch record, if one is required, valid for the period when the shellfish or food fish were taken. Salmon taken for personal use from Canadian waters and landed at a Washington port must meet current salmon regulations for that port.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-195 CLOSED AREAS—SALTWATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlinn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 15.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

(4) Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April 16 through August 15.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulakala Point are closed to salmon angling April 16 through June 30.

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(7) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through August 31.

(8) Columbia River Mouth Conservation Zone 1: Washington waters within Conservation Zone 1, which Conservation Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Conservation Zone are open to salmon angling or the Buoy 10 fishery is open.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank except nonbuoyant lures used in the Columbia River downstream from

Bonneville Dam may have up to three hooks, which may be single, double, or treble hooks. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank except in the Columbia River downstream from Bonneville Dam, natural bait lures may have up to three hooks in total on the combination of all terminal gear.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below or less than 12 inches above a lure.

(4) All hooks must be attached within three inches of the bait or lure.

(5) On the lower Columbia River (downstream from Bonneville Dam), single hooks may not measure more than 1 inch from point to shank, and multiple point hooks may not measure more than 9/16 inch from point to shank.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (((~~Punch~~)) Catch Record Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in ((~~Punch~~)) Catch Record Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in ((~~Punch~~)) Catch Record Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish - ((~~15~~)) 12 fish except 15 fish if taken from Catch Record Card Area 1.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) All other species - no limit.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Catch Record Card Areas 5 through 7) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

| | |
|---|---|
| Rockfish | 10 fish |
| Surfperch | 10 fish |
| Pacific cod | 15 fish |
| Pollock | 15 fish |
| Flatfish (except halibut) | 15 fish |
| Lingcod | ((2)) 1 fish (((~~1 fish if by spear fishing~~))) |

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (Catch Record Card Areas 8-1 through 13) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

| | |
|---|---|
| Rockfish | 5 fish |
| Surfperch | 10 fish |
| Pacific cod | 2 fish |
| Pollock | 5 fish |
| Flatfish (except halibut) | 15 fish |
| Lingcod | 1 fish |

(c) It is unlawful to possess lingcod taken by angling less than ((~~22~~)) 26 inches in length ((~~taken by angling~~)) or greater than 40 inches in length.

(d) The daily bag limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

(e) It is unlawful to use a gaff to land lingcod taken in Catch Record Card Areas 5 through 13.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-285 SHAD AND STURGEON—AREAS AND SEASONS. It is lawful the entire year to fish for or possess sturgeon and shad taken for personal use except in the following closed waters:

(1) Waters lying one mile downstream below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except as provided in subsections (2) and (3) of this section.

(2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville power-line crossing, approximately 1-1/4 mile downstream from the dam, are closed to the fishing for or possession of sturgeon, except when fishing with hand-casted hook and line gear from the mainland shore in those waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island thence to the Oregon angling boundary marker on Bradford Island (located approximately 600 feet downstream from the fish ladder entrance).

(4) Columbia River waters between the upstream line of Bonneville Dam and fishing markers 4 miles below the dam are closed to sturgeon fishing April 16 through June 15.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance – diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay – diggers may additionally retain up to twenty–four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 10 pounds or 5 quarts in the shell.

(9) Shrimp: 10 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Pinto abalone ((~~(Kamschatka)~~)): ((~~5~~)) 3 abalone, minimum size limit ((~~3-1/2~~)) 4 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red rock crabs: 12 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-315 CRABS, SHRIMP, CRAWFISH—UNLAWFUL ACTS. (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand–operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except that in Puget Sound waters it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp. One unit of gear is equivalent to one ring net or one shellfish pot.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use ((~~with shellfish pot or ring net gear~~)) from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes ((~~except from one hour before official sunrise to one hour after official sunset~~)).

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess ((~~crab or shrimp~~)) shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-335 CRAB—UNLAWFUL ACTS. (1) It is unlawful for any person to take or possess for personal use any female Dungeness crabs.

(2) It is unlawful to take or possess any male Dungeness crabs ((~~which measure less than 6 1/4 inches~~)) taken for personal use ((~~except for those waters of Hood Canal south of the Hood Canal Floating Bridge, when the minimum size is 6 inches~~)) which measure less than the following sizes:

(a) In Puget Sound (all contiguous waters east of the Bonilla-Tatoosh Line) except those waters of Hood Canal south of the Hood Canal Floating Bridge - 6 1/4 inch minimum size.

(b) In those waters of Hood Canal south of the Hood Canal Floating Bridge - 6 inch minimum size.

(c) In coastal waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay and the Columbia River - 6 inch minimum size.

(3) All measurement shall be made horizontally across the back (caliper measurement) immediately in front of the points.

(4) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-350 ((~~HARDSHELL~~)) CLAMS OTHER THAN RAZOR CLAMS, COCKLES, BORERS, MUSSELS—AREAS AND SEASONS. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams ((~~April 16, 1991,~~)) through April 15, ((~~1992~~)) 1993.

(e) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed except county tidelands north of the county fishing pier are open January 1 to June 15 of even-numbered years and county tidelands south of the pier are open January 1 to June 15 of odd-numbered years.

(f) Point Whitney—All state-owned tidelands at Point Whitney are closed to clam digging ((~~July~~)) May 16, 1992, through April 15, 1993.

(g) Point Whitney Lagoon—Closed April 16 through August 15, 1992, and September 16, 1992, through April 15, 1993.

(h) Camano Island—All state-owned tidelands at Camano Island State Park are closed to clam digging ((~~Sunday through Friday of each week~~)) April 16 through May 31, 1992, and July 1, 1992, through April 15, 1993.

((~~(h) Eagle Creek—All state-owned tidelands at Eagle Creek are closed to clam digging July 1 through April 15.~~))

(i) Port Townsend Ship Canal—The state-owned tidelands along the east shore of the canal between Port Townsend Bay and Oak Bay are closed to clam digging ((~~through~~)) April ((~~15, 1992~~)) 16 through May 31, 1992, and January 1 through April 15, 1993.

(j) Sequim Bay State Park—All tidelands at Sequim Bay State Park south of the boat ramp are closed ((~~to clam digging through April 15, 1992~~)) May 16, 1992, through April 15, 1993.

(k) Fort Flagler State Park - closed July 1 through September 30, 1992.

(l) Illahee State Park - closed August 1, 1992, through April 15, 1993.

(m) Penrose Point State Park - closed August 1 through September 30, 1992.

(n) Spencer Spit State Park – closed August 1 through December 31.

(o) Department of fisheries tidelands at Hoodsport Salmon Hatchery – closed year round.

(p) Puget Sound state oyster reserves are closed to clam digging the entire year except the following areas are open for personal use clam harvest:

(i) Oakland Bay—The state-owned oyster reserve tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

(ii) Case Inlet—The state-owned oyster reserve tidelands on the east side of North Bay at the north end of the inlet.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is ((~~unlawful~~)) lawful to take ((~~or~~)) and possess oysters taken for personal use from public tidelands ((~~from July 16 through September 15. In addition,~~)) the entire year, except it is unlawful to take or possess oysters taken from the following areas ((~~except~~)) during the periods indicated:

(a) ((~~Hood Canal south of a line from Misery Point to Quatsap Point – October 1 through June 30~~)) Brown Point – closed April 16 through May 15, 1992, and July 1, 1992, through April 15, 1993.

(b) Bywater Bay State Tidelands – ((~~May 16~~)) closed April 16 through ((~~July 15~~)) May 31, 1992, and July 16, 1992, through April 15, 1993.

(c) Point Whitney – closed ((~~April 16, 1991, through April~~)) July ((~~15~~)) 16, 1992, through April 15, 1993.

(d) Point Whitney Lagoon – closed April 16 through July 15, 1992. Closed Saturdays and Sundays, July 16 through July 31, 1992. Closed August 1, 1992, through April 15, 1993.

(e) Kitsap Memorial State Park – ((~~May 16 through June 15~~)) closed April 16 through May 15, 1992, and June 16, 1992, through April 15, 1993.

((~~(e)~~)) (f) Scenic Beach State Park – ((~~April 16 through~~)) closed May ((~~15~~)) 16, 1992, through April 15, 1993.

((~~(f)~~)) (g) Department of fisheries tidelands at Hoodsport Salmon Hatchery – closed year round.

((~~(g) Eagle Creek – April 1 through April 30.~~))

(h) ((~~Brown Point – Closed April 16, 1991, through April 15, 1992.~~)) Seal Rock Forest Service Camp Tidelands – closed September 1, 1992, through April 15, 1993.

(i) Triton Cove State Park Tidelands – closed April 16 through May 15, 1992, and June 16, 1992, through April 15, 1993.

(3) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-400 ABALONE. (1) It is unlawful to remove undersized abalone from ((~~the water, and any undersized abalone must be replaced immediately with the shell outward to the site from which is [it] was removed~~)) an attachment. Persons fishing for abalone must possess a 4-inch caliper and use it to determine if the abalone is of legal size before it is removed from its attachment.

(2) The first ((~~five~~)) three legal size abalone taken must be retained, and it is unlawful to detach abalones once the daily bag limit has been taken.

(3) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

(4) Abalone harvest is limited to use of hands or abalone irons. Abalone irons must be less than 24 inches in length, straight, wider than 3/4 inch and thicker than 1/16 inch. All edges must be rounded. Use of curved irons, knives, or other sharp instruments is prohibited.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-240 BAG LIMITS—OTHER FOOD FISH. It is unlawful for any one person to fish for or possess in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon:

(a) 1 fish not less than 48 inches nor more than ((~~66~~)) 60 inches in length in the Columbia River and tributaries upstream from the Dalles Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) Except as provided for in subsection (1)(a) of this section, the state-wide daily limit for sturgeon is two fish in total, with the following size restrictions:

(i) Minimum size is 40 inches in length;

(ii) Maximum size is ((~~72~~)) 60 inches in length;

(iii) Not more than one of the two fish may be less than 48 inches in length; and

(iv) Not more than one of the two fish may equal or exceed 48 inches in length.

(c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(d) There is an annual personal use bag limit of 15 sturgeon.

(e) No person may have in possession in the state of Washington any sturgeon taken for personal use that exceeds 60 inches in length, regardless of the origin of the sturgeon.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (a) Catch Record Card Areas 1 through 3 - open the entire year, (b) Catch Record Card Area 4 - April 16 through November 30.

(2) Catch Record Card Areas 5((~~, 6, and 7 - April 16 through November 30.~~

~~(3) Catch Record Card Areas 8~~)) through 13 - ((~~April 16~~)) May 1 through ((~~May 31~~)) June 15.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-360 RAZOR CLAMS—AREAS AND SEASONS. (1) It is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, and 3 except as provided for by emergency regulation adopted by the director.

(2) It is unlawful to dig for razor clams at any time in the Long Beach, Twin Harbors, or Copalis Beach Razor Clam Sanctuaries as defined in WAC 220-56-372.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D - June 1 through December 31: Downstream from Chief Joseph Dam to Rocky Reach Dam. The following are closed waters:

(a) Chief Joseph Dam - waters between the west end of the tailrace deck downstream 400 feet to boundary markers in Okanogan County.

(b) Wells Dam - waters between the upstream line of Wells Dam to boundary markers 400 feet below the spawning channel discharge on the Chelan County side and the fish ladder on the Douglas County side.

(2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D - June 1 through September 15; Bag Limit A September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and boundary markers 400 feet downstream of the fish ladders at Rocky Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through October 31; Bag Limit C - November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and boundary markers 650 feet below the fish ladders.

(b) Jackson (Moran) Creek - All waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located 100 feet upstream and 400 feet downstream of the mouth of the hatchery outlet.

(4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D - June 16 through August 15; Bag Limit A - August 16 through October 22.

(5) Old Hanford townsite wooden power line towers to Highway 395 Bridge connecting Pasco and Kennewick: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through December 31. Additionally, Special Bag Limit: 2 salmon per day - April 1 through July 31: Bank fishing only from the hatchery side of the Columbia River from the WDF marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a WDF boundary marker approximately 1/4 mile downstream of Ringold waterway outlet.

(6) Highway 395 Bridge connecting Pasco and Kennewick to the Interstate 5 Bridge: Bag Limit A - January 1 through March 15; Bag Limit C - March 16 through March 31; Bag Limit D - June 16 through July 31; Bag Limit A - August 1 through December 31. It is unlawful to take or possess sockeye salmon taken downstream of the Highway 395 Bridge.

The following waters are closed to fishing for food fish at all times:

(a) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(d) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(e) Bonneville Dam - waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(7) Interstate 5 Bridge to the Megler-Astoria Bridge: Bag Limit A - January 1 through March 31; Bag Limit D - May 16 through July 31; Bag Limit A - August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a

boundary marker east of the mouth of Abernathy Creek. It is unlawful to take or possess sockeye salmon taken downstream from the Interstate 5 Bridge to the Megler–Astoria Bridge.

(8) Megler–Astoria Bridge to the Buoy 10 Line:

(a) ((~~Bag Limit A – October 1 through March 31.~~

~~(b)~~)) Bag Limit F – August 1 through August 15 except waters westerly of the Light 26 Line are closed.

((~~(c)~~)) (b) Bag Limit F – August 16 through Labor Day.

(c) Special bag limit of 3 adult salmon – the day after Labor Day through December 31.

(d) Bag Limit A – January 1 through March 31.

(e) It is unlawful to take or possess sockeye salmon taken downstream from the Megler–Astoria Bridge to the Buoy 10 Line.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only when state waters north of the conservation zone are open to salmon angling. During such periods fishing from the north jetty is open 7 days per week and the bag limit shall be the same as for the ocean waters when open. Also open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery. It is unlawful to take or possess sockeye salmon taken from the North Jetty.

AMENDATORY SECTION (Amending Order 87–16, filed 4/21/87)

WAC 220–57–175 COWLITZ RIVER. (1) Special bag limit – April 1 through July 31: Downstream from fishing boundary markers approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam. Bag limit is six salmon per day not less than ((~~10~~)) 12 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag Limit A except minimum size of 12 inches – August 1 through March 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam structures except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the mouth of Blue Creek must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

(5) Bag Limit A except minimum size of 8 inches – open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 82–19, filed 3/18/82)

WAC 220–57–255 GREEN RIVER (COWLITZ COUNTY). ((~~Closed to salmon angling the entire year.~~)) Special bag limit – one salmon per day, except chinook salmon greater than 28 inches in length must be released – open September 1 through November 30: Downstream from fishing boundary markers located 1500 feet below the Toutle Hatchery temporary rack.

AMENDATORY SECTION (Amending Order 91–13, filed 4/2/91, effective 5/3/91)

WAC 220–57–385 QUILLAYUTE RIVER. Bag Limit A – ((~~May~~)) March 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters.

AMENDATORY SECTION (Amending Order 89–12, filed 3/16/89)

WAC 220–57–405 SAMISH RIVER. Bag Limit A – July 1 through October 15: Downstream from the Thomas Road Bridge to the Bayview–Edison Road Bridge. Terminal gear is limited to a single bait or lure with one single–point hook measuring no more than 1/2 inch from point to shank. Bag Limit A – October 16 through December 31: Downstream from Interstate 5 Bridge to markers located approximately one–quarter mile downstream from Samish Island Bridge.

AMENDATORY SECTION (Amending Order 91–41, filed 6/27/91, effective 7/28/91)

WAC 220–57–425 SKAGIT RIVER. (1) Bag Limit A – July 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length must be released immediately. During the period July, August, and September, not more than one of the adult salmon may be a coho salmon. After September, all coho salmon greater than 20 inches in length must be released. During the period August 1 through September 15, up to six pink salmon allowed in the six salmon daily bag limit.

(2) Bag Limit A – ((~~July 1~~)) June 16 through December 31: Downstream from Gilligan Creek. Not more than one of the adult salmon may be a chinook salmon. During the period July, August, and September, not more than one of the adult salmon may be a coho salmon. After September, all coho salmon greater than 20 inches in length must be released. During the period August 1 through September 15, up to six pink salmon allowed in the six salmon daily bag limit.

AMENDATORY SECTION (Amending Order 89–12, filed 3/16/89)

WAC 220–57–435 SKYKOMISH RIVER. Bag Limit A – July 1 through December 31: Downstream from the confluence of north and south forks. During even–numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 89–12, filed 3/16/89)

WAC 220–57–450 SNOHOMISH RIVER. Bag Limit A – July 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers.

During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-455 SNOQUALMIE RIVER. Bag Limit A - July 1 through December 31. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-57-460 SOLEDUCK RIVER. Bag Limit A - ((~~May~~)) March 1 through November 30: Downstream from the concrete pump station at the Soleduck Hatchery.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag Limit A - ((~~August 16~~)) October 1 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. It is unlawful to take or possess chinook salmon.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-205 DOSEWALLIPS RIVER. ((~~Closed to salmon angling the entire year~~)) Special Bag Limit - 2 adult chum salmon - November 1 through January 31: Downstream from the Highway 101 Bridge. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-210 DUCKABUSH RIVER. ((~~Closed to salmon angling the entire year.~~)) Special Bag Limit - 2 adult chum salmon - November 1 through January 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-430 SKOKOMISH RIVER. Special Daily Bag Limit of two ((~~chinook~~)) salmon not less than 12 inches in length. ((~~All chinook salmon less than 12 inches in length and all other species of salmon must be released immediately - July~~)) August 1 through September ((~~15~~)) 30 and November 1 through January 31: Downstream from the mouth of Vance Creek. Coho salmon must be released immediately. Terminal gear on the Skokomish River is limited to one bait or lure with one single-pointed hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-490 UNION RIVER. ((~~Closed to salmon angling the entire year.~~)) Special Bag Limit: Two adult chum salmon - November 1 through January 31: Downstream from the North Shore Road Bridge. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). Bag Limit A - August 1 through December 31: West of University Bridge, to a north-south line located 400 feet east of the eastern end of the north wingwall of the Chittenden Locks. Sockeye salmon must be released immediately. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge are closed to salmon angling at all times.

## WSR 92-11-013
### PERMANENT RULES
### DEPARTMENT OF AGRICULTURE
[Filed May 12, 1992, 10:28 a.m.]

Date of Adoption: May 12, 1992.

Purpose: To streamline and simplify the rapeseed production field registration process by recognizing the declared dominant type and requiring specific registration of only the "off-type" varieties within each district.

Citation of Existing Rules Affected by this Order: Amending chapter 16-570 WAC.

Statutory Authority for Adoption: RCW 15.66.025 and 15.65.055.

Pursuant to notice filed as WSR 92-08-055 on March 26, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 12, 1992
Michael V. Schwisow
for C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1946, filed 8/3/87)

WAC 16-570-030 DUTIES OF RAPESEED PRODUCTION DISTRICT BOARDS, PERSONS, PRODUCERS. (1) Duties of the board shall include:

(a) Proposing and clearly defining district/subdistrict boundaries to be submitted to the director for establishment by rule. District and subdistrict boundaries shall follow geographical and/or topographical characteristics or provide for buffer zones to provide for isolation. Consideration is to be given to existing crop production to minimize negative impact to sensitive crops and shall also be extended beyond district and state lines to minimize impacts to producers in contiguous districts or states and cooperate to avoid the need for buffer zones which could prevent producers from raising repeseed near district or state lines.

(b) Producers and industry shall have the ability to petition the board to recommend to the director to adopt subdistricts within an initial production district, should production for multiple markets develop.

(c) The board shall designate the Washington State University extension offices to facilitate the production districts in the registration of rapeseed production fields, in accordance with subsection (2) of this section.

(d) The board shall examine the economic potential for the differing types of rapeseed, and with input from affected producers, propose the dominant type for the district and/or subdistricts. In proposing the district and/or subdistrict boundaries and the dominant types of rapeseed for production, the board shall avoid negative impacts to already existing crops. The board shall propose and recommend to the director, rules establishing a dominant rapeseed type. A public hearing shall be held no later than March 15th, with rules adopted no later than May 15th of any production year after 1986. Hearings need not be held each year if there is no petition to change existing rule(s). The board shall inform producers of the areas and type(s) that are approved for production. This may be accomplished by utilizing producer meetings, local news and radio media, and the use of Washington State University cooperative extension personnel.

(e) The board shall serve as the first level for disputes involving production of conflicting types by conducting an inquiry to determine the facts of the dispute. If resolution is not reached at the board level the board shall then render an advisory opinion to be submitted to the director for additional action.

(f) The board shall have the authority to recommend to the director production of "off type" rapeseed (other than the authorized dominant type) or rapeseed production in an area where it is otherwise prohibited under the following criteria:

(i) The producer of the "off type" rapeseed must petition the board to allow "off type" rapeseed production.

(ii) The petition shall contain the following information:

(A) Producer name, address, telephone number and location within district/subdistrict.

(B) Crop year.

(C) Variety name and species of rapeseed to be produced.

(D) Principal use of proposed production (i.e., industrial or food oil, seed, forage, cover crop etc.).

(E) Variety traits – Erucic acid and glucosinolate levels.

(F) Contracting company – (if any).

(G) Acreage to be produced.

(H) Exact legal description and reference to local landmarks of proposed acreage.

(I) Evidence of isolation of at least one-half mile, or at such greater distance as required by rule within the respective district and/or subdistrict, from other rapeseed production or other sensitive crops.

(J) Signed statements from all landowners/operators within one-half mile of the proposed production site stating that they will not plant a conflicting type during the proposed crop year.

(2) Persons or producers of "off type" rapeseed shall register all fields prior to planting, by location((~~, type~~)) and variety of all rapeseed to be produced, with the district board at the extension office designated by the district board.

(3) Seed certification requirements.

(a) Only certified seed shall be used for Washington production: PROVIDED, That the variety dwarf essex may be used for seed purposes without certification as certified seed is no longer available.

(b) All rapeseed varieties utilized for Washington production shall be accompanied by phyto-sanitary certification that it is free from phoma lingam (black leg) fungus. In the event that low level phoma lingam (black leg) fungus is present, the seed must be treated with environmental protection agency and/or Washington state approved chemicals for the control of phoma lingam (black leg) fungus, and recertified as free from viable phoma lingam fungus after treatment.

(4) Any person selling or offering rapeseed for sale in the state of Washington, either in person, through dealerships or through radio, video or printed media, must be licensed by the Washington state department of agriculture seed branch.

(5) Any volunteer or uncontrolled rapeseed may be subject to the Washington state noxious weed control board and chapter 17.10 RCW. Any transport of unbagged rapeseed for the purpose of conveyance, shall be in suitably covered or sealed containers or vehicles to avoid the spread of volunteer or otherwise uncontrolled rapeseed. All harvesting and planting equipment shall be properly cleaned and adequate precautions taken to avoid the spread of rapeseed prior to movement from any farm or production area.

(6) The director shall have the authority to require destruction prior to bloom of any rapeseed production that does not meet the rules of the director or any established production district. In the event that the person or producer of said production does not comply with the destruction order prior to bloom, the director is authorized to have the production destroyed by a third party and the cost of such destruction is to be charged to the producer of said production.

## WSR 92-11-014
### PROPOSED RULES
### DEPARTMENT OF HEALTH
[Filed May 12, 1992, 1:27 p.m.]

Original Notice.

Title of Rule: WAC 246-815-090 Practical examination review procedures.

Purpose: To amend the present rules by deleting the words "or content" which were not intended to be placed where it is being deleted. The rules provide for an appeal procedure for dental hygiene candidates who have failed the examination.

Statutory Authority for Adoption: Chapter 18.29 RCW.

Statute Being Implemented: RCW 18.29.120(5).

Summary: This rule provides an appeal process for candidates who have failed the dental hygiene practical examination. The proposal amends the existing rule for this purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Lewis, 1300 S.E. Quince, Olympia, WA (206) 586-1867.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides an appeal process for candidates who have failed the dental hygiene practical examination. The amendment is for the purpose of deleting "or content" which had not originally been intended to be in the place where it is being deleted.

Proposal Changes the Following Existing Rules: Deleting "or content," which would not provide the content for the basis of appeal. The content of the examination is in Washington Administrative Code rule and is at the discretion of the Dental Hygiene Examining Committee.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on June 23, 1992, at 1:00 p.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by June 19, 1992.

Date of Intended Adoption: June 30, 1992.

May 5, 1992
Kristine Gebbie
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-815-090 PRACTICAL EXAMINATION REVIEW PROCEDURES. (1) Any candidate who takes the practical examination for licensure as a dental hygienist and does not pass may request informal review by the examining committee of his or her examination results. This request must be in writing and must be received by the department within twenty days of the postmark date of the mailing of the practical examination score sheets. The examining committee will not set aside its prior determination unless the candidate shows, by a preponderance of evidence, significant error in examination procedure, bias, fraud or discrimination in the examination process.

(2) The procedure for filing an informal review is as follows:

(a) Request, on the form provided with the examination results, a copy of the score sheets on the failed practical portion of the examination. This request must be in writing and must be received by the department within fifteen days of the postmark date of notification of the examination results.

(b) The candidate will be provided along with the copies of the failed grade sheets a form to complete on which the candidate must specifically identify the challenged portion(s) of the examination and must state the specific reason(s) why the candidate believes the results of the examination should be changed. Such form must be returned to the department within twenty days of the postmark date of the mailing of the practical examination score sheets.

(c) The candidate will be identified only by candidate number for the purpose of this review. Letters of reference, requests for special consideration, or any reexamination of the patient will not be considered by the examining committee. Patient difficulty will not be considered by the examining committee if the patient category selected by the candidate was accepted for the examination.

(d) The examining committee will schedule a closed session meeting to review the examination, score sheets, and form completed by the candidate for the purpose of informal review. Candidates are not permitted to attend.

(e) The candidate will be notified in writing of the results.

(3) Any candidate who is not satisfied with the result of the informal examination review may submit a written request for a formal hearing to be held before an administrative law judge. The hearing will be conducted under the Administrative Procedure Act, chapter 34.05 RCW and the rules adopted thereunder. The written request for a formal hearing must be received by the department of health within twenty days of the postmark date of the notification of the results of the informal review. The written request must specifically identify the challenged portion(s) of the examination and must state the specific reason(s) why the candidate believes the results of the examination should be changed. The final decision shall be made by the secretary of the department of health. The secretary will not modify the examination results unless the candidate shows, by a preponderance of evidence, significant error in examination ((~~content or~~)) procedure, bias, fraud or discrimination in the examination process.

(4) Before the hearing is scheduled the parties shall attempt by informal means to resolve the following:

(a) The simplification of issues;

(b) Amendments, if any, to the candidate's notice identifying the challenged portion(s) of the examination and the statement of the specific reason(s) why the candidate believes the results of the examination should be changed;

(c) The obtaining of stipulations, admission of facts, and documents;

(d) The limitation of the number of witnesses;

(e) A schedule for completion of all discovery; and

(f) Such other matters as may aid in the disposition of the proceeding.

If the parties are unable to resolve any of these issues informally, either party shall request a prehearing conference to be held before the administrative law judge.

(5) In the event there is a prehearing conference, the administrative law judge shall enter an order which sets forth the actions taken at the conference, the amendments to the candidate's notice and the agreements reached by the parties as to any of the matters considered, including but not limited to the settlement or simplification of issues. The prehearing order limits the issues for hearing to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.

(6) Candidates will receive at least seven days notice of the time and place of the formal hearing. The hearing will be restricted to the specific portion(s) of the examination the candidate has identified as the basis for his or her challenge of the examination results unless amended by a prehearing order. The issues raised by the candidate at the formal hearing shall be limited to those issues raised by the candidate of consideration at the informal review unless amended by a prehearing order. Letters of reference, requests for special consideration or any reexamination of the patient will not be considered.

## WSR 92-11-015
### NOTICE OF PUBLIC MEETINGS
### HARDWOODS COMMISSION
[Memorandum—May 11, 1992]

There will be a meeting of the Washington State Hardwoods Commission on May 19, 1992, at 9:00 a.m. until completed at the BAC Building, 919 Lakeridge Way, Olympia, WA.

## WSR 92-11-016
NOTICE OF PUBLIC MEETINGS
## SOUTH PUGET SOUND COMMUNITY COLLEGE
[Memorandum—May 8, 1992]

BOARD OF TRUSTEES
Regular Meeting Schedule
1992–93

| DATE | TIME |
|---|---|
| Thursday, July 23, 1992 | 3:00 p.m. |
| Thursday, September 3, 1992 | 3:00 p.m. |
| Thursday, October 1, 1992 | 3:00 p.m. |
| Thursday, November 5, 1992 | 3:00 p.m. |
| Thursday, December 3, 1992 | 3:00 p.m. |
| Thursday, January 7, 1993 | 3:00 p.m. |
| Thursday, February 4, 1993 | 3:00 p.m. |
| Thursday, March 4, 1993 | 3:00 p.m. |
| Thursday, April 1, 1993 | 3:00 p.m. |
| Thursday, May 6, 1993 | 3:00 p.m. |
| Thursday, June 3, 1993 | 3:00 p.m. |

## WSR 92-11-017
## GOVERNOR'S TIMBER TEAM
[Filed May 12, 1992, 2:06 p.m.]

**Reviser's note:** The following material has **not** been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

The governor of the state of Washington has determined the Washington State Register is the appropriate location for the publication of these revised regulations implementing federal legislation restricting the export of timber from state and local government lands.

The following revised regulations are issued by the governor of the state of Washington and are effective July 1, 1992.

Denny Heck
Chief of Staff
Office of the Governor

Chapter 240–15
Log Export Restrictions

WAC 240–15–005 PURPOSES AND IMPLEMENTATION. The Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382). The Act directs the governor to promulgate rules for its implementation consistent with Section 553, of title 5, United States Code. These rules have been promulgated in accordance with the directives of the Act rather than Chapter 34.05 RCW.

WAC 240–15–010 AUTHORITY AND DEFINITIONS. (1) Applicability. This chapter shall apply to the sale of timber originating from public lands in the State of Washington, when such timber is subject to an order issued by the Secretary of Commerce of the United States under section 491(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382). Western Red Cedar is exempt from these rules. The prohibition on the export of Western Red Cedar is covered by section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406 (i)).

(2) Presidential action. This chapter shall not apply to the extent that an order referred to under WAC 240–15–010(1) is suspended, removed, or modified by the President of the United States under the authority of section 491(e) or 491(f) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382).

(3) Surplus timber. Timber which has been determined to be surplus to the needs of timber manufacturing facilities in the United States by the Secretary of Agriculture or the Secretary of the Interior of the United States is not subject to regulation under this chapter.

(4) Definitions. As used in this chapter:

(a) "Agency" means any state or local public entity which owns or manages land from which timber is harvested in the State of Washington.

(b) "Export" means either to load on a conveyance or vessel or put in a log raft with the intent to ship to a foreign destination, or to place at a facility such as a port, yard, pond, or dock with the intent to load on a conveyance or vessel or put in a log raft for shipment to a foreign destination.

(c) "Export restricted timber" means unprocessed timber originating from a sale of timber from public lands which has been designated as export restricted under WAC 240–15–015 (1)(a), and includes both logs and stumpage originating from such a sale.

(d) "Person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company and business affiliates where one affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(e) "Processing facility" means a facility for converting unprocessed timber into any of the items of processed timber listed in WAC 240–015–010(i). Chip plants, pulp mills and facilities that process only Western Red Cedar Products are not considered processing facilities.

(f) "Public lands" means lands in the State of Washington that are held or owned by the State of Washington, or a political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is:

(i) held by the United States,

(ii) held in trust by the United States for the benefit of any Indian tribe or individual, or

(iii) held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(g) "Purchaser" means a person who has been awarded a timber sale contract to harvest or acquire export restricted timber from public lands in the State of Washington.

(h)(i) "Substitution" means the purchase of export restricted timber or possession of an active sale contract for export restricted timber by (A) a person who owns and operates a processing facility (B) where the person owning the processing facility also exports or sells for

export from the United States unprocessed timber originating from private lands in the State of Washington and (C) where such lands are owned by the person, or the person has exclusive rights to harvest timber from such lands, where such rights may be exercised at any time during a period of more than 7 years. Substitution can occur only when all three above noted conditions are met. Exceptions to this 7 year restriction may be considered on a case by case basis by the Department of Revenue in exceptional circumstances.

(ii) The reference in WAC 240-15-~~[(101 (4)(g))]~~ 010 (4)(h)(i) to the export from the United States of unprocessed timber originating from private lands shall mean exports which occur at any time:

(A) after that date which is 12 months prior to the award date of the sale of the export restricted timber, except that it shall not refer to any exports which occur prior to January 1, 1991; and

(B) prior to that date which is 24 months after the award date of the sale of the export restricted timber, or the end of the term of the timber sale contract for the export restricted timber, whichever is later.

(i) "Unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. As used in this chapter, the term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standards grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause 2 and are sawn on 4 sides, with wane less than 1/4 of any face, not exceeding 8 3/4 inches in thickness.

(iv) Chips, pulp or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or, treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WAC 240-15-015 PROHIBITIONS. (1) Prohibition on export. Except as specifically provided under this chapter, no person may:

(a) export from the United States export restricted timber; or

(b) sell, trade, exchange, or otherwise convey to any other person, for the purpose of export from the United States, export restricted timber.

(2) Prohibition on substitution. Except as specifically provided under this chapter, no person may purchase or possess an active contract for export restricted timber from any agency if such person owns and operates a processing facility and the processing of export restricted timber at such facility by such person would constitute substitution.

(3) Prohibition on certain indirect transactions. Except as specifically provided under this chapter, no person may purchase from any other person export restricted timber if such person is prohibited under WAC 240-15-015(2) (relating to substitution) from purchasing such timber directly from the agency managing the public lands from which such timber originated.

(4) Exemptions. Notwithstanding any other provisions of this chapter;

(a) The prohibition in WAC 240-15-015(2) (relating to substitution) shall not apply to the use of timber originating from public lands which is either (i) hardwood timber, or (ii) Western Red Cedar.

(b) The prohibitions in WAC 240-15-015(3) (relating to certain indirect purchases) shall not prohibit ~~[any person otherwise affected by such prohibition from obtaining up to 33 1/3% of the volume of timber purchased in an export restricted timber sale in calendar year 1991 (not including hardwoods and Western Red Cedar) from the purchaser of such a sale if such person will process such timber at a domestic facility; In calendar year 1992 the volume of a sale subject to such purchases shall be reduced to 20%. In calendar years after 1992 the volume of a sale subject to such purchases shall be reduced to 10%]~~ the sale of up to 33 1/3 percent of the volume (not including hardwoods and western red cedar) in any sale purchased in calendar year 1991 to a person or persons who are otherwise ineligible under WAC 240-15-015(3) to purchase such timber, provided the timber is processed at a domestic facility. For timber sales sold in calendar year 1992, the volume that may be sold to such persons shall be reduced to 20 percent of the total volume (not including hardwoods and western red cedar). For timber sales sold in calendar year 1993 and after, the volume that may be sold to such persons shall be reduced to 10 percent of the total volume (not including hardwoods and western red cedar). The transferor shall notify the Department of Revenue, in writing, of any such transaction prior to physically transferring the timber to the transferee. Rights to purchase export restricted timber under this paragraph may be used on a sale by sale basis and may not be accumulated or transferred to other sales. The advertised volume or volume specified in the sale agreement shall serve as the basis for determining the sale volume to which the percentage applies.

(c) The prohibition in WAC 240-15-015(2) (relating to substitution) shall not prohibit the purchase by any person of export restricted timber originating from public lands in Ferry County or any other county in the State of Washington partially or entirely east of the Columbia River if such person does not export or sell for

export timber from private lands in that geographic area.

(d) The prohibition in WAC 240-15-015(2) (relating to substitution) shall not apply to any log, regardless of gross scale, sold to a domestic processing facility for the purpose of conversion into chips, pulp or pulp products.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WAC 240-15-020 AGENCY REQUIREMENTS. (1) Designation of export restricted timber.

(a) Each agency managing public lands subject to this chapter shall designate timber sales to be sold as export restricted and as exportable. ~~{(For calendar year 1991)}~~ Pursuant to an order issued by the Secretary of Commerce of the United States for calendar years 1992 and 1993, each agency shall designate as export restricted, sales that include 75 per cent of the volume of unprocessed timber from such agency's annual sales program, excluding Western Red Cedar. ~~{(For calendar year 1992 and subsequent years, this)}~~ This percentage shall ~~{(be)}~~ remain in effect until revised ~~{(as necessary in order to comply with orders issued)}~~ by order of the Secretary of Commerce of the United States under section 491(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382). Sales designated as export restricted shall be distributed proportionately throughout the geographical area of land owned or managed by the agency. Timber originating from sales designated as export restricted shall be representative of the species and grade distribution of the agency's sale program.

(b) Designation of timber sales as export restricted and as exportable shall be on a sale by sale basis and shall apply to the entire sale being considered; except that a sale shall be subdivided into portions that are export restricted and exportable if there are insufficient sales in the annual sales program to insure that designation on a sale by sale basis meets the applicable requirements of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382).

(2) Report to the Governor. By March 31 of each year, each agency selling timber from public lands shall report to the Governor on the results of its sales program in compliance with the Forest Resources Conservation and Shortage Relief Act (Public Law 101-382) for the preceding calendar year. The report shall include information on the volume, species, grade, and geographical distribution of sales sold as export restricted and not export restricted.

(3) Reports on the purchase of timber. Not later than 5 days after the receipt of a Purchaser Certification furnished to an agency under WAC 240-15-025, the agency shall submit a copy of such certification to the Washington Department of Revenue. The agency shall make copies of such reports available to the public at reasonable times and locations.

(4) Contract provisions. Agencies contracting for the sale of export restricted timber from public lands shall include in such contracts clauses incorporating the applicable requirements of WAC 240-15-015 (relating to the prohibitions on export and substitution), WAC 240-15-025 (relating to reporting requirements), and WAC 240-15-030 (relating to enforcement). In addition, such contracts shall include clauses which provide that a violation by the purchaser of the prohibitions under WAC 240-15-025 (relating to the prohibitions on export and substitution) shall be sufficient cause for the agency to cancel the contract.

(5) Prohibition on accepting bids from ineligible purchasers. Agencies shall not accept bids for sales of export restricted timber from persons included on the List of Ineligible Purchasers published by the Department of Revenue under this chapter.

(6) List of ineligible purchasers. Agencies contracting for the sale of export restricted timber from public lands shall attach to such contracts a copy of the most recent List of Ineligible Purchasers published by the Department of Revenue.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WAC 240-15-025 REPORTING REQUIREMENTS. (1) Purchaser certification. Prior to issuing a contract for the sale of export restricted timber, an agency which has offered such timber for sale shall require that the purchaser submit 2 signed copies of a Purchaser Certification, in such form as the Department of Revenue may require, which affirms, under penalty of law, the truth of each of the following:

(a) That such timber, while still in unprocessed form, will not be:

(i) exported by the purchaser or used in substitution by the purchaser; or

(ii) transferred to any other person for the purpose either of export or to be used in substitution.

(b) That hammer brands and red paint applied to such timber as required by this chapter shall remain on such timber until it is domestically processed.

(c) That prior to selling, trading, exchanging, or otherwise conveying any timber which is export restricted timber to any other person, the purchaser (transferor) shall require the transferee to provide to the purchaser (transferor) 2 signed copies of a completed Transferee Certification, in such form as the Department of Revenue shall require; and that the purchaser (transferor) shall provide the department with one copy not later than 5 days after receipt from the transferee.

(d) That the purchaser (transferor) shall not sell, trade, exchange, or otherwise convey export restricted timber to any person identified on the List of Ineligible Purchasers published by the Department of Revenue under this chapter.

(2) Transferee certification. Any person possessing export restricted timber shall, prior to selling, trading, exchanging, or otherwise conveying such timber to any other person, require the transferee to provide to the transferor 2 signed copies of a completed Transferee Certification, in such form as the Department of Revenue shall require. The Transferee Certification shall include an affirmation, under penalty of law, as to the truth of each of the items required to be affirmed in a

Purchaser Certification, (except insofar as the transfer is pursuant to WAC 240-15-015 (4)(b) (relating to certain indirect transactions) as well as the quantity of export restricted timber which is being transferred. The transferor shall provide to the Department of Revenue one signed copy of the Transferee Certification not later than 5 days after the receipt from the transferee.

(3) Reporting requirements for certain purchasers of export restricted timber. Any person who:

(a) processes export restricted timber, and

(b) either owns forest lands the State of Washington, or has the exclusive right to harvest timber from lands in the State of Washington for a period of more than 7 years, shall, for purposes of the reporting requirements under this section, treat any timber harvested from lands referred to in WAC 240-15-025 (3)(b) during the period of time referred to under WAC 240-15-010 (4)(g)(ii)(B) as though it were export restricted timber originating from public lands. However, nothing in this section shall require painting or branding of timber originating on private lands.

(4) Every person who purchases export restricted timber or who comes into possession of export restricted timber shall keep and preserve for a period of five years, suitable records as may be necessary to determine the final distribution and use of such export restricted timber, and the final distribution and use of timber which is subject to the prohibition against substitution in WAC 240-15-015(2).

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WAC 240-15-030 ENFORCEMENT. (1) Debarment.

(a) Any person who knowingly violates any of the prohibitions in WAC 240-15-015(1) (relating to exports), WAC 240-15-015(2) (relating to substitution), or WAC 240-15-015(3) (relating to certain indirect transactions) shall be debarred, by an order issued by the Department of Revenue from bidding on or purchasing export restricted timber originating from any public lands covered by this chapter for a period of two years.

(b) A second debarment of any person under this section which is for a violation by the same person committed after the first debarment of such person under this section shall result in a permanent debarment of such person from bidding on or purchasing export restricted timber originating from any public lands covered by this chapter.

(c) The Washington Administrative Procedures Act shall apply to the issuance of any order by a state agency under this subsection. Agencies other than state agencies shall follow appropriate procedures in issuing any order under this subsection.

(d) For purposes of this section, the term "person" shall include any previously formed but no longer existing entity which would be included in WAC 240-15-010 (4)(d) if existing now.

(2) Log branding and marking requirements.

(a)(i) All log ends 10 inches or greater in diameter from sales of unprocessed timber by a public agency covered by this chapter shall, prior to removal from the sale area, be hammer branded with a brand registered under chapter 76.36 RCW, as amended.

(ii) In addition to the branding requirements of WAC 240-15-030 (2)(a)(i), both ends of all logs from those sales designated as export restricted under WAC 240-15-020 (1)(a) shall, prior to removal from the sale area, be painted with durable red paint.

(b) If timber that has been properly marked and branded, as required under WAC 240-15-030 (2)(a), is subdivided into smaller pieces for any purpose other than immediate processing, each piece shall be marked in the same manner as the original timber.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WAC 240-15-035 REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF REVENUE. (1) Administration. Administration of this chapter shall be the responsibility of the Washington Department of Revenue.

(2) Referrals of violations. Whenever the Department of Revenue becomes aware of a violation, or possible violation, of the prohibitions in WAC 240-15-015(1) (relating to export), WAC 240-15-015(2) (relating to substitution), or WAC 240-15-015(3) (relating to certain indirect transactions) it shall notify the managing agency so that such agency may promptly take appropriate action, as provided in this chapter.

(3) Monitoring.

(a) The Department of Revenue shall develop and implement a program for the monitoring of export restricted timber in transit and at ports and other facilities for the purpose of ensuring that

(i) export restricted timber is not exported from the United States or used in substitution, and

(ii) timber harvested from lands referred to in WAC 240-15-025 (3)(b) (relating to reporting requirements for certain purchasers of export restricted timber) at any time during the period of time referred to in WAC 240-15-010 (4)(g)(ii), is not exported from the United States.

(b) The Department of Revenue may enter into contracts or agreements with other appropriate state or federal authorities for the purpose of meeting the requirements of WAC 240-15-035 (3)(a).

(4) Certifications.

(a) The Department of Revenue shall issue uniform forms which shall be used as Purchaser Certifications required to be submitted under WAC 240-15-025(1), and Transferee Certifications required to be submitted under WAC 240-15-025(2). Each such form shall include a notification, conspicuously placed, that the making of a false statement on such certification is punishable as a gross misdemeanor under RCW 9A.72.040.

(b) Copies of all certifications received by the Department of Revenue shall be available for public inspection at reasonable hours and locations.

(c) The Department of Revenue may audit certifications submitted by any person under WAC 240-15-025 (relating to reporting requirements) in order to assure that such person is able to account for the disposition of all export restricted timber which such person has purchased from a public agency or received by means of transfer from any other person.

(d) The Department of Revenue shall develop and implement a program to audit certifications submitted under WAC 240-15-025 (relating to reporting requirements) in order to assure that persons who acquire export restricted timber are able to account for the disposition of all export restricted timber which they have purchased from a public agency or received by means of transfer from any other person.

(5) List of ineligible purchasers.

(a) The Department of Revenue shall establish and maintain a list of persons who, due to violations of this chapter, are ineligible to purchase export restricted timber.

(b) The Department of Revenue shall add a person to the list referred to in WAC 240-15-035 (5)(a) whenever:

(i) it finds under WAC 240-15-030(1) (relating to debarment) that such person has violated WAC 240-15-015(1) (relating to the prohibition on exports), WAC 240-15-015(2) (relating to the prohibition on substitution), or WAC 240-15-015(3) (relating to certain indirect transactions); or

(ii) it receives notification from an agency which sells export restricted timber that such agency has made a finding, under WAC 240-15-030(1) (relating to debarment) that such person has violated WAC 240-15-015(1) (relating to the prohibition on exports) WAC 240-15-015(2) (relating to the prohibition on substitution), or WAC 240-15-015(3) (relating to certain indirect transactions).

(c) The Department of Revenue shall remove a person from the list referred to in WAC 240-15-035 (5)(a) after such period of time has elapsed as is required under the order debarring such person under WAC 240-15-030(1) (relating to debarment). No person who is placed on the list as the result of being debarred for a violation which occurred subsequent to the first debarment of such person under WAC 240-15-030(1) shall be removed from the list.

(d) The Department of Revenue shall provide a copy of the list of ineligible purchasers ~~[(to)]~~ referred to in WAC 240-15-035 (5)(a)(i) to each agency which sells export restricted timber, and (ii) each person who requests to receive copies of the list. The Department of Revenue shall provide revised copies of the list to all such agencies and persons whenever a person is added to or removed from the list.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 92-11-018
### PROPOSED RULES
## OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 12, 1992, 2:12 p.m.]

Original Notice.

Title of Rule: Chapter 326-08 WAC.

Purpose: To implement RCW 39.19.030.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030.

Summary: Changes to this chapter will result in more efficient administration of the state's program.

Reasons Supporting Proposal: These rules are updated to more effectively implement the provisions of chapter 39.19 RCW and to comply with the provisions of chapter 34.05 RCW.

Name of Agency Personnel Responsible for Drafting: Kent M. Nakamura, Assistant Attorney General, 900 4th Avenue, #2000, Seattle, WA, 464-6390; Implementation and Enforcement: James A. Medina, 406 South Water, Olympia, WA, 753-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules set forth the requirements of the state's certification program. Their purpose is to ensure that only businesses owned and controlled by minorities and/or women participate in the program as intended by the legislature.

Proposal Changes the Following Existing Rules: Changes terminology and procedures relative to handling appeals of agency actions to comply with chapter 34.05 RCW; and deletes repetitive or obsolete provisions.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504, on June 23, 1992, at 1:30 p.m.

Submit Written Comments to: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504, by June 19, 1992.

Date of Intended Adoption: July 1, 1992.

May 12, 1992
James A. Medina
Director

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-010 PURPOSE. The purpose of this chapter is to effectuate the intent of chapter 39.19 RCW by providing procedures for ((~~contested case hearings to review decisions of OMWBE to deny or to revoke certification or to refuse to renew certification of a business as an MBE or WBE~~)) adjudicative proceedings to review decisions by the office to decertify or deny certification of a business and for the assessment of penalties.

AMENDATORY SECTION (Amending Order 85-6, filed 7/2/85)

WAC 326-08-015 ((~~TIME FOR APPEAL~~)) PROCEDURE TO REQUEST AN ADJUDICATIVE PROCEEDING. ((~~When an applicant has been denied certification, or when a MWBE's certification~~

~~has not been renewed or has been revoked, the aggrieved party may request a hearing. The request must be made in writing and must be received by the office within thirty calendar days of the receipt of the decision denying certification, denying renewal of certification or revoking certification.~~)) (1) When business has been notified that it is to be decertified, denied certification, or assessed a penalty, the aggrieved party may request an adjudicative proceeding.

(2) The request shall be made in writing on 8 1/2" x 11" paper and shall set forth in detail the reasons the business believes the office's decision is in error.

(3) The request must be filed and served on the office within twenty calendar days from the service of the notice to decertify or deny certification, or assess penalties. Service must be made pursuant to WAC 326-08-070.

NEW SECTION

WAC 326-08-016 ACTION ON REQUESTS FOR ADJUDICATIVE PROCEEDING. (1) The office shall commence an adjudicative proceeding within ninety days after receipt of a request for an adjudicative proceeding.

(2) An adjudicative proceeding commences when the office notifies a party that a prehearing conference, hearing, or other stage of an adjudicative proceeding will be conducted.

(3) Within thirty days after receipt of the request for an adjudicative proceeding, the office shall examine the request, notify the requestor of any obvious errors or omissions, request any additional information the office wishes to obtain and is permitted by law to require, and notify the requestor of the name, mailing address, and telephone number of the office that may be contacted regarding the request.

NEW SECTION

WAC 326-08-018 PRESIDING OFFICER. The presiding officer in an adjudicative proceeding is the administrative law judge designated by the office of administrative hearings after notice of hearing is issued by the office.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-020 GENERAL PROCEDURES RULES. The provisions of chapter 10-08 WAC, (("~~Uniform procedural rules for the conduct of contested cases~~")) "Model rules of procedure" shall apply to hearings regarding certification ((~~by OMWBE~~)) or penalties by the office.

NEW SECTION

WAC 326-08-035 WHO MAY APPEAR. (1) Any party to an adjudicative proceeding may participate personally.

(2) The owner of the majority interest in a certified business is a necessary party and shall appear on behalf of the business.

(3) A former employee of the office shall not, at any time after severing his or her employment with the office, appear as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of the office, except with the written permission of the director.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-040 WHO MAY APPEAR ((~~AND PRACTICE~~)) IN A REPRESENTATIVE CAPACITY. ((~~No person other than the following may appear in a representative capacity governed by this chapter:~~))

(1) ((~~Washington lawyer.~~)) Any party to an adjudicative proceeding may be represented or advised by:

(a) An attorney ((~~at law entitled~~)) admitted to practice before the Washington state supreme court ((~~of the state of Washington.~~));

((~~(2)~~)) (b) Other ((~~lawyer. An~~)) attorney ((~~at law entitled~~)) admitted to practice before the highest court ((~~of record~~)) of any other state, if attorneys ((~~at law of the state of~~)) from Washington state are permitted to appear in a representative capacity before administrative agencies of ((~~such other~~)) that state, and if not otherwise prohibited by Washington law;

(((~~3) Legal intern. A legal intern licensed to engage in the practice of law in the state of Washington under Admission to Practice Rule 9;~~

~~(4) Officer, etc. A bona fide officer, partner, or full-time employee of an association, partnership, or corporation appearing for the association, partnership or corporation.~~

~~(5) Former employee of OMWBE.~~)) (2) A former employee of ((~~OMWBE shall not, at any time after severing his or her employment with the office, appear, except with the written permission of the director as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of~~)) the office may appear only as permitted in WAC 326-08-035(3).

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-050 NOTICE OF HEARING. (1) When ((~~OMWBE~~)) the director receives a request for ((~~hearing,~~)) an adjudicative proceeding, the office will issue a notice ((~~of hearing will be issued~~)) to all parties and to the office of administrative hearings as provided by RCW ((~~34.04.090~~)) 34.05.434.

(((~~(1)~~))) (2) Time. All parties shall be served with notice not less than twenty days before the hearing.

(((~~(2) Contents. The notice shall state the time, place, and nature of the hearing. Further, it shall state the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular statute and rules involved, and a short and plain statement of the matters asserted.~~)) (3) The notice shall include:

(a) The names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) The name of the proceeding;

(c) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(d) A statement of the time, place, and nature of the proceeding;

(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(f) A reference to the particular sections of the statutes and rules involved;

(g) A short and plain statement of the matters asserted by the agency; and

(h) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with WAC 326-08-105.

NEW SECTION

WAC 326-08-051 ACCOMMODATIONS. (1) If limited English-speaking or hearing impaired parties or witnesses will be involved in an adjudicative proceeding and need an interpreter, an interpreter will be provided at no cost to the party or witness.

(2) If disabled parties or witnesses will be involved in a hearing and need accommodation of facilities or services, the office will provide reasonable accommodation.

(3) Any party or witness requiring an interpreter or accommodation shall notify the office at the time of the request for an adjudicative proceeding.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-070 SERVICE OF PAPERS. ((~~Any paper filed with the administrative law judge shall be served on all parties in the manner described in WAC 10-08-110.~~)) (1) All notices, pleadings, and other papers filed with the presiding officer shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by telegraph, by electronic telefacsimile transmission and same-day mailing of copies, or by commercial parcel delivery company.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the office shall be deemed filed upon actual receipt during office hours at any location of the office. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(i) Delivering a copy thereof in person to (names.); or

(ii) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(iii) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(iv) Transmitting a copy thereof by electronic telefacsimile device, and on the same day, mailing a copy to each party to the proceeding or his or her attorney or authorized agent; or

(v) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-080 WHO MAY ISSUE SUBPOENAS. Subpoenas may be issued by the director of ((~~OMWBE, any OMWBE staff member designated by the director~~)) the office, the director's designee, the assigned administrative law judge, or an attorney ((~~at law who is the attorney~~)) for any party in the ((~~contested case~~)) adjudicative proceeding as provided in RCW ((~~34.04.105~~)) 34.05.446.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-090 SERVICE OF SUBPOENAS. Subpoenas may be served in any manner authorized by WAC ((~~10-08-110~~)) 326-08-070.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-08-095 BURDEN OF PROOF AT A HEARING. (1) At a hearing held pursuant to WAC 326-08-010, the burden of proof shall be on the applicant to demonstrate ((~~why~~)) that the applicant qualifies for certification under chapter 39.19 RCW and Title 326 WAC.

(2) The administrative law judge ((~~may~~)) shall only admit and consider evidence on the issue of whether ((~~OMWBE's~~)) the office's decision to decertify or to deny((~~, revoke, or refuse to renew~~)) certification based on the information which was submitted or obtained by the office, was correct at the time it was made.

(3) The administrative law judge shall only admit and consider evidence related to the grounds specified in the request for an adjudicative proceeding.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-100 PROCEDURES FOR SETTLEMENT OR DISPOSITION WITHOUT A HEARING. ((~~With the approval of the administrative law judge,~~)) (1) Disposition may ((~~also~~)) be made of any ((~~hearing~~)) adjudicative proceeding by stipulation, consent order ((~~or~~)), default((~~. Any person feeling aggrieved by the entry of an order of default may request the director to review the order by using the procedure outlined in WAC 326-08-130. The director will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar~~)), or summary judgment.

(2) Summary judgment will be considered pursuant to a time schedule set by the administrative law judge and may be decided without oral argument.

NEW SECTION

WAC 326-08-105 DEFAULT. (1) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the administrative law judge may serve upon all parties a default order with a statement of the grounds for the order.

(2) Within seven days after service of a default order under subsection (1) of this section, the party against whom the default order was entered may file a written motion to the administrative law judge requesting that the order be vacated and stating the grounds relied upon. The administrative law judge will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-110 ((~~PROPOSED DECISION—PREPARATION AND SERVICE~~)) INITIAL ORDER. (1) ((~~Preparation.~~)) Within ((~~a reasonable time~~)) ninety days after the conclusion of ((~~the hearing before an administrative law judge, the administrative law judge shall prepare a proposed order for signature by the director of OMWBE. The proposed order shall conform to the requirements of WAC 10-08-210.~~

~~(2) Service. A copy of the proposed order shall be sent, by certified mail, to all parties~~)) an adjudicative proceeding or after submission of memos, briefs, or proposed findings that the administrative law judge may allow after the adjudicative proceeding, the administrative law judge shall prepare an initial order for signature by the director.

(2) The initial order shall include a statement of findings and conclusions and the reasons and basis on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The initial order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(3) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the administrative law judge shall not base a finding exclusively on such inadmissible evidence unless the administrative law judge determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(4) Where it bears on the issues presented, the experience, technical competency, and specialized knowledge of the office may be used in the evaluation of evidence.

(5) If an administrative law judge becomes unavailable for any reason before the entry of the order, a substitute administrative law judge shall be appointed by the office of administrative hearings. The substitute administrative law judge shall use any existing record and may conduct any further proceedings appropriate in the interests of justice. Any action taken by a duly appointed administrative law judge for an unavailable administrative law judge is as effective as if taken by the unavailable administrative law judge.

(6) The administrative law judge shall cause to be served copies of the order on all parties.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-120 OBJECTIONS TO ((~~PROPOSED DECISION~~)) INITIAL ORDER. ((~~Any party may make written objections to the proposed order. Any such objection must be served on the director and all other parties within ten days of service of the proposed order. An objection shall state specifically how the proposed order should be modified.~~)) (1) Any party to an adjudicative proceeding may file objections to an initial order pursuant to RCW 34.05.464.

(2) The objections to the initial order shall be filed with the director within twenty days of the date of service of the initial order. Copies of the objections to the initial order shall be served upon all other parties.

(3) The objections to the initial order shall specify the portions of the initial order to which objection is taken and shall refer to the evidence of the record which is relied upon to support each objection.

(4) Any party may file a reply to the objections to the initial order. The reply shall be filed with the director within ten days of the date of service of the objections to the initial order and copies of the reply shall be served upon all other parties.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-130 ((~~DECISION~~)) REVIEW OF INITIAL ORDER; FINAL ORDER. ((~~The director will issue a written decision no later than thirty days from the date the proposed decision is served on the parties.~~)) (1) An initial order will become final without further action by the office unless, within ninety days of the service of the initial order:

(a) The director determines that the initial order should be reviewed; or

(b) A party to the adjudicative proceeding files objections to the initial order as required in WAC 326-08-120(2).

(2) Upon the occurrence of either subsection (1)(a) or (b) of this section, the director will serve in writing a final order.

NEW SECTION

WAC 326-08-140 PETITION FOR RECONSIDERATION OF A FINAL ORDER. (1) Within ten days of the service of a final order or when an initial order becomes final, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The petition shall be filed with the office.

(2) No petition for reconsideration may stay the effectiveness of an order.

(3) If a petition for reconsideration is timely filed, the time for filing a petition for judicial review does not commence until the director disposes of the petition for reconsideration.

(4) The petition shall be disposed of by the same person or persons who entered the final order, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and remanding for further hearing by the administrative law judge.

(5) The director is deemed to have denied the petition for reconsideration, if, within twenty days from the date the petition is filed, the director does not either:

(a) Dispose of the petition; or

(b) Serve the parties with a written notice specifying the date by which it will act on the petition.

(6) The filing of a petition for reconsideration is not a prerequisite for seeking judicial review. An order denying reconsideration, or a notice provided for in subsection (5)(b) of this section is not subject to judicial review.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 326-08-060 FORM OF PLEADINGS.

## WSR 92-11-019
### EMERGENCY RULES
## OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 12, 1992, 2:15 p.m.]

Date of Adoption: May 12, 1992.

Purpose: To implement the provisions of the Washington Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Amending chapter 326-08 WAC.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The agency's current practices are not in compliance with chapter 34.05 RCW, the Washington Administrative Procedure Act. Without an immediate change to the rules, the agency lacks authority to perform functions required by its enabling legislation.

Effective Date of Rule: Immediately.

May 12, 1992
James A. Medina
Director

*AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)*

*WAC 326-08-010 PURPOSE. The purpose of this chapter is to effectuate the intent of chapter 39.19 RCW by providing procedures for ((~~contested case hearings to review decisions of OMWBE to deny or to revoke certification or to refuse to renew certification of a business as an MBE or WBE~~)) adjudicative proceedings to review decisions by the office to decertify or deny certification of a business and for the assessment of penalties.*

*AMENDATORY SECTION (Amending Order 85-6, filed 7/2/85)*

*WAC 326-08-015 ((~~TIME FOR APPEAL~~)) PROCEDURE TO REQUEST AN ADJUDICATIVE PROCEEDING. ((~~When an applicant has been denied certification, or when a MWBE's certification has not been renewed or has been revoked, the aggrieved party may request a hearing. The request must be made in writing and must be received by the office within thirty calendar days of the receipt of the decision denying certification, denying renewal of certification or revoking certification.~~)) (1) When business has been notified that it is to be decertified, denied certification, or assessed a penalty, the aggrieved party may request an adjudicative proceeding.*

*(2) The request shall be made in writing on 8 1/2" x 11" paper and shall set forth in detail the reasons the business believes the office's decision is in error.*

*(3) The request must be filed and served on the office within twenty calendar days from the service of the notice to decertify or deny certification, or assess penalties. Service must be made pursuant to WAC 326-08-070.*

*NEW SECTION*

*WAC 326-08-016 ACTION ON REQUESTS FOR ADJUDICATIVE PROCEEDING. (1) The office shall commence an adjudicative proceeding within ninety days after receipt of a request for an adjudicative proceeding.*

*(2) An adjudicative proceeding commences when the office notifies a party that a prehearing conference, hearing, or other stage of an adjudicative proceeding will be conducted.*

*(3) Within thirty days after receipt of the request for an adjudicative proceeding, the office shall examine the request, notify the requestor of any obvious errors or omissions, request any additional information the office wishes to obtain and is permitted by law to require, and notify the requestor of the name, mailing address, and*

telephone number of the office that may be contacted regarding the request.

NEW SECTION

WAC 326-08-018 PRESIDING OFFICER. The presiding officer in an adjudicative proceeding is the administrative law judge designated by the office of administrative hearings after notice of hearing is issued by the office.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-020 GENERAL PROCEDURES RULES. The provisions of chapter 10-08 WAC, ((~~"Uniform procedural rules for the conduct of contested cases"~~)) "Model rules of procedure" shall apply to hearings regarding certification ((~~by OMWBE~~)) or penalties by the office.

NEW SECTION

WAC 326-08-035 WHO MAY APPEAR. (1) Any party to an adjudicative proceeding may participate personally.

(2) The owner of the majority interest in a certified business is a necessary party and shall appear on behalf of the business.

(3) A former employee of the office shall not, at any time after severing his or her employment with the office, appear as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of the office, except with the written permission of the director.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-040 WHO MAY APPEAR ((~~AND PRACTICE~~)) IN A REPRESENTATIVE CAPACITY. ((~~No person other than the following may appear in a representative capacity governed by this chapter:~~))

(1) ((~~Washington lawyer.~~)) Any party to an adjudicative proceeding may be represented or advised by:

(a) An attorney ((~~at law entitled~~)) admitted to practice before the Washington state supreme court ((~~of the state of Washington.~~));

(((~~(2)~~))) (b) Other ((~~lawyer. An~~)) attorney ((~~at law entitled~~)) admitted to practice before the highest court ((~~of record~~)) of any other state, if attorneys ((~~at law of the state of~~)) from Washington state are permitted to appear in a representative capacity before administrative agencies of ((~~such other~~)) that state, and if not otherwise prohibited by Washington law;

((~~(3) Legal intern. A legal intern licensed to engage in the practice of law in the state of Washington under Admission to Practice Rule 9;~~

~~(4) Officer, etc. A bona fide officer, partner, or full-time employee of an association, partnership, or corporation appearing for the association, partnership or corporation.~~

~~(5) Former employee of OMWBE.~~)) (2) A former employee of ((~~OMWBE shall not, at any time after severing his or her employment with the office, appear, except with the written permission of the director as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of~~)) the office may appear only as permitted in WAC 326-08-035(3).

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-050 NOTICE OF HEARING. (1) When ((~~OMWBE~~)) the director receives a request for ((~~hearing;~~)) an adjudicative proceeding, the office will issue a notice ((~~of hearing will be issued~~)) to all parties and to the office of administrative hearings as provided by RCW ((~~34.04.090~~)) 34.05.434.

((~~(1)~~)) (2) Time. All parties shall be served with notice not less than twenty days before the hearing.

((~~(2) Contents. The notice shall state the time, place, and nature of the hearing. Further, it shall state the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular statute and rules involved, and a short and plain statement of the matters asserted.~~)) (3) The notice shall include:

(a) The names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) The name of the proceeding;

(c) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(d) A statement of the time, place, and nature of the proceeding;

(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(f) A reference to the particular sections of the statutes and rules involved;

(g) A short and plain statement of the matters asserted by the agency; and

(h) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with WAC 326-08-105.

NEW SECTION

WAC 326-08-051 ACCOMMODATIONS. (1) If limited English-speaking or hearing impaired parties or witnesses will be involved in an adjudicative proceeding and need an interpreter, an interpreter will be provided at no cost to the party or witness.

(2) If disabled parties or witnesses will be involved in a hearing and need accommodation of facilities or services, the office will provide reasonable accommodation.

(3) Any party or witness requiring an interpreter or accommodation shall notify the office at the time of the request for an adjudicative proceeding.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-070 SERVICE OF PAPERS. ((~~Any paper filed with the administrative law judge shall be~~

~~served on all parties in the manner described in WAC 10-08-110.~~)) (1) All notices, pleadings, and other papers filed with the presiding officer shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by telegraph, by electronic telefacsimile transmission and same-day mailing of copies, or by commercial parcel delivery company.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the office shall be deemed filed upon actual receipt during office hours at any location of the office. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(i) Delivering a copy thereof in person to (names.); or

(ii) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(iii) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(iv) Transmitting a copy thereof by electronic telefacsimile device, and on the same day, mailing a copy to each party to the proceeding or his or her attorney or authorized agent; or

(v) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-080 WHO MAY ISSUE SUBPOENAS. Subpoenas may be issued by the director of ((~~OMWBE, any OMWBE staff member designated by the director~~)) the office, the director's designee, the assigned administrative law judge, or an attorney ((~~at law who is the attorney~~)) for any party in the ((~~contested case~~)) adjudicative proceeding as provided in RCW ((~~34.04.105~~)) 34.05.446.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-090 SERVICE OF SUBPOENAS. Subpoenas may be served in any manner authorized by WAC ((~~10-08-110~~)) 326-08-070.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-08-095 BURDEN OF PROOF AT A HEARING. (1) At a hearing held pursuant to WAC 326-08-010, the burden of proof shall be on the applicant to demonstrate ((~~why~~)) that the applicant qualifies for certification under chapter 39.19 RCW and Title 326 WAC.

(2) The administrative law judge ((~~may~~)) shall only admit and consider evidence on the issue of whether ((~~OMWBE's~~)) the office's decision to decertify or to deny((~~, revoke, or refuse to renew~~)) certification based on the information which was submitted or obtained by the office, was correct at the time it was made.

(3) The administrative law judge shall only admit and consider evidence related to the grounds specified in the request for an adjudicative proceeding.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-100 PROCEDURES FOR SETTLEMENT OR DISPOSITION WITHOUT A HEARING. ((~~With the approval of the administrative law judge,~~)) (1) Disposition may ((~~also~~)) be made of any ((~~hearing~~)) adjudicative proceeding by stipulation, consent order ((~~or~~)), default((~~. Any person feeling aggrieved by the entry of an order of default may request the director to review the order by using the procedure outlined in WAC 326-08-130. The director will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar~~)), or summary judgment.

(2) Summary judgment will be considered pursuant to a time schedule set by the administrative law judge and may be decided without oral argument.

NEW SECTION

WAC 326-08-105 DEFAULT. (1) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the administrative law judge may serve upon all parties a default order with a statement of the grounds for the order.

(2) Within seven days after service of a default order under subsection (1) of this section, the party against whom the default order was entered may file a written motion to the administrative law judge requesting that the order be vacated and stating the grounds relied upon. The administrative law judge will set aside an order of default only upon a showing of good and sufficient

cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-110 ((~~PROPOSED DECISION—PREPARATION AND SERVICE~~)) INITIAL ORDER. (1) ((~~Preparation.~~)) Within ((~~a reasonable time~~)) ninety days after the conclusion of ((~~the hearing before an administrative law judge, the administrative law judge shall prepare a proposed order for signature by the director of OMWBE. The proposed order shall conform to the requirements of WAC 10-08-210.~~

~~(2) Service. A copy of the proposed order shall be sent, by certified mail, to all parties~~)) an adjudicative proceeding or after submission of memos, briefs, or proposed findings that the administrative law judge may allow after the adjudicative proceeding, the administrative law judge shall prepare an initial order for signature by the director.

(2) The initial order shall include a statement of findings and conclusions and the reasons and basis on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The initial order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(3) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the administrative law judge shall not base a finding exclusively on such inadmissible evidence unless the administrative law judge determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(4) Where it bears on the issues presented, the experience, technical competency, and specialized knowledge of the office may be used in the evaluation of evidence.

(5) If an administrative law judge becomes unavailable for any reason before the entry of the order, a substitute administrative law judge shall be appointed by the office of administrative hearings. The substitute administrative law judge shall use any existing record and may conduct any further proceedings appropriate in the interests of justice. Any action taken by a duly appointed administrative law judge for an unavailable administrative law judge is as effective as if taken by the unavailable administrative law judge.

(6) The administrative law judge shall cause to be served copies of the order on all parties.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-120 OBJECTIONS TO ((~~PROPOSED DECISION~~)) INITIAL ORDER. ((~~Any party may make written objections to the proposed order. Any such objection must be served on the director and all other parties within ten days of service of the proposed order. An objection shall state specifically how the proposed order should be modified.~~)) (1) Any party to an adjudicative proceeding may file objections to an initial order pursuant to RCW 34.05.464.

(2) The objections to the initial order shall be filed with the director within twenty days of the date of service of the initial order. Copies of the objections to the initial order shall be served upon all other parties.

(3) The objections to the initial order shall specify the portions of the initial order to which objection is taken and shall refer to the evidence of the record which is relied upon to support each objection.

(4) Any party may file a reply to the objections to the initial order. The reply shall be filed with the director within ten days of the date of service of the objections to the initial order and copies of the reply shall be served upon all other parties.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-08-130 ((~~DECISION~~)) REVIEW OF INITIAL ORDER; FINAL ORDER. ((~~The director will issue a written decision no later than thirty days from the date the proposed decision is served on the parties.~~)) (1) An initial order will become final without further action by the office unless, within ninety days of the service of the initial order:

(a) The director determines that the initial order should be reviewed; or

(b) A party to the adjudicative proceeding files objections to the initial order as required in WAC 326-08-120(2).

(2) Upon the occurrence of either subsection (1)(a) or (b) of this section, the director will serve in writing a final order.

NEW SECTION

WAC 326-08-140 PETITION FOR RECONSIDERATION OF A FINAL ORDER. (1) Within ten days of the service of a final order or when an initial order becomes final, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The petition shall be filed with the office.

(2) No petition for reconsideration may stay the effectiveness of an order.

*(3) If a petition for reconsideration is timely filed, the time for filing a petition for judicial review does not commence until the director disposes of the petition for reconsideration.*

*(4) The petition shall be disposed of by the same person or persons who entered the final order, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and remanding for further hearing by the administrative law judge.*

*(5) The director is deemed to have denied the petition for reconsideration, if, within twenty days from the date the petition is filed, the director does not either:*

*(a) Dispose of the petition; or*

*(b) Serve the parties with a written notice specifying the date by which it will act on the petition.*

*(6) The filing of a petition for reconsideration is not a prerequisite for seeking judicial review. An order denying reconsideration, or a notice provided for in subsection (5)(b) of this section is not subject to judicial review.*

*REPEALER*

*The following section of the Washington Administrative Code is repealed:*

*WAC 326-08-060 FORM OF PLEADINGS.*

## WSR 92-11-020
EMERGENCY RULES
## DEPARTMENT OF FISHERIES
[Order 92-31—Filed May 12, 1992, 3:17 p.m.]

Date of Adoption: May 12, 1992.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-290.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Hatchery returns are earlier than expected allowing the fishery to open sooner than scheduled.

Effective Date of Rule: Immediately.

May 12, 1992
Gene DiDonato
for Joseph R. Blum
Director

*NEW SECTION*

*WAC 220-57-29000M ICICLE RIVER. Notwithstanding the provisions of WAC 220-57-290, it is unlawful to take, fish for or possess salmon from the waters of the Icicle River except as follows:*

*(1) Open May 13 through June 30, 1992 in those waters downstream from a point 400 feet below Leavenworth National Fish Hatchery to fishing boundary markers at the mouth of the Icicle River.*

*(2) Two salmon per day – minimum size 12 inches.*

## WSR 92-11-021
EMERGENCY RULES
## DEPARTMENT OF FISHERIES
[Order 92-32—Filed May 12, 1992, 5:00 p.m. ]

Date of Adoption: May 12, 1992.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The sablefish restricted landings by nontrawl vessels is lifted to harvest available sablefish. This rule is adopted at the recommendation of the Pacific Fisheries Management Council.

Effective Date of Rule: Immediately.

May 12, 1992
Helen Small
for Joseph R. Blum
Director

*NEW SECTION*

*WAC 220-44-05000V COASTAL BOTTOMFISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. April 17, 1992, until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:*

*(1) The following definitions apply to this section:*

*(a) Fixed two-week fishing period. Each of the following is defined as a fixed, two-week fishing period (hours given are on a 24-hour basis):*

*0001 hours May 6 to 2400 hours May 19;*
*0001 hours May 20 to 2400 hours June 2;*
*0001 hours June 3 to 2400 hours June 16;*
*0001 hours June 17 to 2400 hours June 30;*
*0001 hours July 1 to 2400 hours July 14;*
*0001 hours July 15 to 2400 hours July 28;*
*0001 hours July 29 to 2400 hours August 11;*
*0001 hours August 12 to 2400 hours August 25;*
*0001 hours August 26 to 2400 hours September 8;*
*0001 hours September 9 to 2400 hours September 22;*
*0001 hours September 23 to 2400 hours October 6;*
*0001 hours October 7 to 2400 hours October 20;*

*0001 hours October 21 to 2400 hours November 3;*
*0001 hours November 4 to 2400 hours November 17;*
*0001 hours November 18 to 2400 hours December 1;*
*0001 hours December 2 to 2400 hours December 15;*
*0001 hours December 16 to 2400 hours December 31;*

*(b) Fixed four-week periods. Each of the following is defined as a fixed, four-week fishing period (hours given are on a 24-hour basis):*

*0001 hours April 22 to 2400 hours May 19;*
*0001 hours May 20 to 2400 hours June 16;*
*0001 hours June 17 to 2400 hours July 14;*
*0001 hours July 15 to 2400 hours August 11;*
*0001 hours August 12 to 2400 hours September 8;*
*0001 hours September 9 to 2400 hours October 6;*
*0001 hours October 7 to 2400 hours November 3;*
*0001 hours November 4 to 2400 hours December 1;*
*0001 hours December 2 to 2400 hours December 31;*

*(c) Cumulative trip limit - A cumulative trip limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips.*

*(d) Vessel trip - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.*

*(e) Vessel trip limit - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.*

*(f) Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.*

*(g) Week - Wednesday through the following Tuesday.*

*(2) Widow rockfish - Cumulative trip limit of 30,000 pounds in a fixed four-week period. No minimum size. Unless the fishery for widow rockfish is closed, a vessel which has landed its four-week, cumulative trip limit may begin to fish on the limit for the next four-week period so long as the fish are not landed until the next four-week period.*

*(3) Shortbelly rockfish - No maximum poundage per two-week or four-week fishing period. No minimum size.*

*(4) Pacific ocean perch - No limit on the number of vessel trips landings less than 1,000 pounds per vessel trip. Landings greater than 1,000 pounds but not to exceed 3,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of fish aboard per vessel trip. No landings of more than 3,000 pounds per vessel trip. No minimum size.*

*(5) Sebastes complex - All other species of rockfish except widow, shortbelly, Pacific ocean perch and thornyhead or idiot rockfish (Sebastolobus spp.) - Cumulative trip limit of 50,000 pounds per fixed two-week period. No more than 8,000 pounds of this amount may be yellowtail rockfish. No minimum size. Unless the fishery for the Sebastes complex or yellowtail rockfish is closed, a vessel which has landed its two-week, cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period.*

*(6) Deepwater complex - Sablefish, Dover sole, and thornyhead rockfish - Cumulative trip limit of 55,000 pounds per fixed two-week period. No more than 25,000 pounds of this amount may be thornyheads. No minimum size on Dover sole or thornyheads. Unless the fishery for the deepwater complex is closed, a vessel which has landed its two-week, cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period.*

*The following limits apply to sablefish taken under this subsection:*

*(a) Trawl vessels - Landings above 1,000 pounds of sablefish are allowed only if sablefish represent 25 percent or less of the total combined weight of the deepwater complex onboard. No more than 5,000 pounds of sablefish may be smaller than 22 inches in length in any landing. Minimum size for dressed sablefish is 15.5 inches from the anterior insertion of the first dorsal fin to the tip of the tail. To convert from dressed weight to round weight, multiply the dressed weight by 1.6.*

*(b) Non-trawl vessels - 0001 hours May 12 until further notice; no trip limit, except that no more than 1,500 pounds (round weight) or 3% of all sablefish on board may be less than 22 inches total length or 15.5 inches dressed length. To convert round weight from dressed weight, multiply the dressed weight by 1.6.*

*7) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative trip limit, vessel trip limit or daily trip limit.*

*(8) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.*

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

*REPEALER*

*The following section of the Washington Administration Code is repealed effective 12:01 a.m. April 17, 1992:*

*WAC 220-44-05000U COASTAL BOTTOMFISH CATCH LIMITS. (92-20)*

**Reviser's note:** The typographical errors in the above repealer occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 92-11-022
### PERMANENT RULES
### HIGHER EDUCATION COORDINATING BOARD
[Filed May 13, 1992, 8:02 a.m.]

Date of Adoption: May 6, 1992.

Purpose: To detail the definition of state need grant program cost-of-attendance.

Citation of Existing Rules Affected by this Order: Amending WAC 250-20-021.

Statutory Authority for Adoption: RCW 28B.10.800 through 28B.10.822.

Pursuant to notice filed as WSR 92-08-076 on March 31, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 12, 1992
Ann Daley
Executive Director

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-021 PROGRAM DEFINITIONS. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the Higher Education Coordinating Board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the Board.

(2) The term "disadvantaged student" shall mean a post-high school student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: the Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15-.011 through RCW 28B.15.013 and Board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) is a veteran of the U.S. Armed Forces; or,

(c) is an orphan or ward of the court; or,

(d) has legal dependents other than a spouse; or,

(e) is a married student or a graduate/professional student and will not be claimed by parents as a U.S. income tax exemption in the aid year; or,

(f) was not claimed by parents as a U.S. income tax exemption in either of the two calendar years prior to the academic year for which aid is being considered and had a total income and benefits for those two years sufficient to support his or herself; or,

(g) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the Board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State Need Grant cost-of-attendance" is the standard ((~~average~~)) student cost per sector, developed by the Board, to determine the eligible student's exact award.

(a) The costs for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For the 1992-93 academic year, the value of the statutory ceiling is $13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of $6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of $2,274, plus the current average state appropriation per student for operating expenses in all public institutions of $4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The Higher Education Coordinating Board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The ((~~adopted budgets~~)) costs-of-attendance

for each sector will be published concurrent with annual guidelines for program administration.

(10) "State Need Grant family contribution" for students with dependents shall mean the sum of the assumed parent's contribution, contribution from student assets, and all income including student's earnings. For students without dependents, the State Need Grant "family contribution" shall mean the sum of contributions from all the student's (and spouse's) assets and income, excluding student earnings.

(11) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

(12) Funds administered by the institution such as Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, as well as funds available to the student because of his or her student status are to be used in calculating the student's overall need, but are not counted as part of the State Need Grant family contribution.

(13) "Maximum base grant" is a percentage of the State Need Grant costs–of–attendance. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the Board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State Need Grant award" is the difference between the maximum base grant and the student's total State Need Grant family contribution, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full–time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty–supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for measuring progress of State Need Grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full–time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three–quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half–time student is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the Need Grant at the conclusion of any term in which he or she fails to complete at least one–half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one–half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the Board, which limits the number of terms in which a student may receive the Need Grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case–by–case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

## WSR 92-11-023
### EMERGENCY RULES
### HIGHER EDUCATION COORDINATING BOARD
[Filed May 13, 1992, 8:05 a.m.]

Date of Adoption: May 6, 1992.

Purpose: To detail the definition of state need grant program cost–of–attendance.

Citation of Existing Rules Affected by this Order: Amending WAC 250–20–021.

Statutory Authority for Adoption: RCW 28B.10.800 through 28B.10.822.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To enable the Higher Education Coordinating Board to implement immediately the 1992–93 state need grant program.

Effective Date of Rule: Immediately.

May 12, 1992
Ann Daley
Executive Director

*AMENDATORY SECTION (Amending WSR 90–04–067, filed 2/5/90, effective 7/1/90)*

*WAC 250–20–021 PROGRAM DEFINITIONS. (1) The term "needy student" shall mean a post–high*

school student of an institution of postsecondary education who demonstrates to the Higher Education Coordinating Board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the Board.

(2) The term "disadvantaged student" shall mean a post-high school student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: the Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15-.011 through RCW 28B.15.013 and Board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) is a veteran of the U.S. Armed Forces; or,

(c) is an orphan or ward of the court; or,

(d) has legal dependents other than a spouse; or,

(e) is a married student or a graduate/professional student and will not be claimed by parents as a U.S. income tax exemption in the aid year; or,

(f) was not claimed by parents as a U.S. income tax exemption in either of the two calendar years prior to the academic year for which aid is being considered and had a total income and benefits for those two years sufficient to support his or herself; or,

(g) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the Board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State Need Grant cost-of-attendance" is the standard ((~~average~~)) student cost per sector, developed by the Board, to determine the eligible student's exact award.

(a) The costs for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For the 1992-93 academic year, the value of the statutory ceiling is $13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of $6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of $2,274, plus the current average state appropriation per student for operating expenses in all public institutions of $4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The Higher Education Coordinating Board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The ((~~adopted budgets~~)) costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "State Need Grant family contribution" for students with dependents shall mean the sum of the assumed parent's contribution, contribution from student assets, and all income including student's earnings. For students without dependents, the State Need Grant "family contribution" shall mean the sum of contributions from all the student's (and spouse's) assets and income, excluding student earnings.

(11) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

*(12) Funds administered by the institution such as Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, as well as funds available to the student because of his or her student status are to be used in calculating the student's overall need, but are not counted as part of the State Need Grant family contribution.*

*(13) "Maximum base grant" is a percentage of the State Need Grant costs-of-attendance. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding.*

*(14) "Dependent care allowance" is a flat grant amount, to be determined by the Board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.*

*(15) "State Need Grant award" is the difference between the maximum base grant and the student's total State Need Grant family contribution, plus a dependent care allowance, if applicable.*

*(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.*

*(17) "Clock hours" means a period of time which is the equivalent of either:*

*(a) A 50 to 60 minute class, lecture, or recitation, or*

*(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.*

*(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.*

*(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for measuring progress of State Need Grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.*

*(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time student is six credits per term or 150 clock hours per term.*

*(b) Each school's policy must deny further disbursements of the Need Grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.*

*(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the Board, which limits the number of terms in which a student may receive the Need Grant while in a probationary status.*

*(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.*

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

## WSR 92-11-024
### RULES COORDINATOR
### EASTERN WASHINGTON UNIVERSITY
[Filed May 14, 1992, 9:47 a.m.]

The rules coordinator for Eastern Washington University is: Ann M. Carrasco, Procedures Analyst, Office of Human Resources, Showalter Hall 318, MS-114, Cheney, WA 99004, (509) 359-6299.

## WSR 92-11-025
### WITHDRAWAL OF PROPOSED RULES
### PARKS AND RECREATION COMMISSION
[Filed May 14, 1992, 9:49 a.m.]

The Washington State Parks and Recreation Commission hereby withdraws proposed changes to WAC 352-32-295 filed with your office on April 22, 1992, as part of WSR 92-09-158. We will be refiling this change at a later time this year.

Nina Carter
Rules Coordinator

## WSR 92-11-026
### RULES COORDINATOR
### DEPARTMENT OF RETIREMENT SYSTEMS
[Filed May 14, 1992, 4:32 p.m.]

This is to notify you that I am designating Paul Neal as rules coordinator for the Department of Retirement Systems pursuant to RCW 34.05.310. Please delete Hector Gonzalez as designated rules coordinator and replace him with Paul Neal.

George Northcroft
Director

## WSR 92-11-027
EMERGENCY RULES
## DEPARTMENT OF RETIREMENT SYSTEMS
[Filed May 14, 1992, 4:33 p.m.]

Date of Adoption: May 14, 1992.

Purpose: WAC 415-108-670 and 415-112-560, to implement early retirement, chapter 234, Laws of 1992; WAC 415-115-080, amending procedure for assessing fee for untimely and inaccurate employer reporting to the Department of Retirement Systems.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-115-110; and amending WAC 415-115-080.

Statutory Authority for Adoption: RCW 41.50.050.

Other Authority: RCW 41.50.110(3).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Early retirement rules must be effective during the early retirement window period, which began on April 2, 1992, and expires on August 31, 1992. Amendments to WAC 415-115-080 must be effective prior to next billing date, July 1, 1992.

Effective Date of Rule: Immediately.

May 14, 1992
George Northcroft
Director

*NEW SECTION*

*WAC 415-108-670 ADMINISTRATION OF EARLY RETIREMENT. (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 234, Laws of 1992. No department, employer, or member shall apply these provisions except in administering chapter 234, Laws of 1992. The definitions and other statutory provisions of chapter 41.40 RCW shall be used in interpreting this section.*

*(b) No member shall be eligible to retire under chapter 234, Laws of 1992, unless that member meets the application, age and service, and employment status requirements of that chapter.*

*(c) If a member fails to notify his or her employer in writing by June 15, 1992, of his or her intent to retire under chapter 234, Laws of 1992, that member shall not be eligible for such retirement.*

*(2) For purposes of administering section 1, chapter 234, Laws of 1992:*

*(a) The following persons shall be considered to be employed by an employer in an eligible position on April 2, 1992:*

*(i) Persons in an eligible plan I position who reported for work or otherwise provided service to an employer on April 2, 1992;*

*(ii) Persons who were on paid leave from an eligible plan I position on April 2, 1992;*

*(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from an eligible plan I position on April 2, 1992; or*

*(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in an eligible plan I position for a period that includes April 2, 1992.*

*(b) The following persons shall not be considered to be employed by an employer in an eligible position on April 2, 1992:*

*(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on April 2, 1992;*

*(ii) Persons on an unauthorized leave on April 2, 1992.*

*(c) "Retired" means separated from service.*

*(3) For purposes of administering section 1(2), chapter 234, Laws of 1992, the following persons meet the age and service requirements of that subsection:*

*(a) Members who meet the criteria of section 1(2), chapter 234, Laws of 1992, on or before August 31, 1992;*

*(b) Members who, through utilization of applicable laws, are eligible to count service credit for nonplan I service for purposes of determining retirement eligibility; and*

*(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 1(2), chapter 234, Laws of 1992.*

*(4) If:*

*(a) The department cannot verify prior to August 31, 1992, that a member requesting information regarding early retirement eligibility has earned sufficient service credit to qualify for retirement under section 1, chapter 234, Laws of 1992, and the provisions of this section; then*

*(b) The member shall be eligible to retire after August 31, 1992; provided that*

*(c) The department subsequently determines that the member had sufficient service credit to retire under the provisions of chapter 234, Laws of 1992, on or before August 31, 1992, and the member applied for such retirement on or before June 15, 1992.*

*(5) For purposes of administering section 1, chapter 234, Laws of 1992, written applications for retirement shall be considered to be received by the department by the June 15, 1992, statutory deadline if:*

*(a) The applications are delivered to the department by 5:00 p.m. on June 15, 1992; or*

*(b) The application is delivered to the department after 5:00 p.m. on June 15, 1992, and bears a United States Post Office postmark dated on or before June 15, 1992.*

*(6) If a person who retires under chapter 234, Laws of 1992, subsequently enters an eligible position inadvertently or otherwise, he or she shall reenter membership and have his or her pension benefits suspended pursuant to RCW 41.40.023. That person will not be eligible for reretirement until he or she qualifies under RCW 41.40.180.*

NEW SECTION

WAC 415-112-560 ADMINISTRATION OF EARLY RETIREMENT. (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 234, Laws of 1992. No department, employer, or member shall apply these provisions except in administering chapter 234, Laws of 1992. The definitions and other statutory provisions of chapter 41.32 RCW shall be used in interpreting this section.

(b) No member shall be eligible to retire under chapter 234, Laws of 1992, unless that member meets the application, age and service, and employment status requirements of that chapter.

(2) For purposes of administering section 3, chapter 234, Laws of 1992:

(a) The following persons shall be considered to be employed by an employer on April 2, 1992:

(i) Persons in a plan I position who reported for work or otherwise provided service to an employer on April 2, 1992, in a position other than as a substitute teacher;

(ii) Persons who were on paid leave from a plan I position on April 2, 1992;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from a plan I position on April 2, 1992; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in a plan I position for a period that includes April 2, 1992.

(b) The following persons shall not be considered to be employed by an employer in an eligible position on April 2, 1992:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on April 2, 1992;

(ii) Persons on an unauthorized leave on April 2, 1992.

(c) "Retired" means separated from service.

(3) For purposes of administering section 3(2), chapter 234, Laws of 1992, the following persons meet the age and service requirements of that subsection:

(a) Members who meet the criteria of section 3(2), chapter 234, Laws of 1992, on or before August 31, 1992;

(b) Members who, through utilization of applicable laws, are eligible to count service credit for nonplan I service for purposes of determining retirement eligibility;

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 1(2), chapter 234, Laws of 1992; and

(4) If:

(a) The department cannot verify prior to August 31, 1992, that a member requesting information regarding early retirement eligibility has earned sufficient service credit to qualify for retirement under section 1, chapter 234, Laws of 1992, and the provisions of this section; then

(b) The member shall be eligible to retire after August 31, 1992; provided that

(c) The department subsequently determines that the member had sufficient service credit to retire under the provisions of chapter 234, Laws of 1992, on or before August 31, 1992, and the member applied for such retirement on or before June 15, 1992.

(5) For purposes of administering section 3, chapter 234, Laws 1992, written applications for retirement shall be considered to be received by the department by the June 15, 1992, statutory deadline if:

(a) The applications are delivered to the department by 5:00 p.m. on June 15, 1992; or

(b) The application is delivered to the department after 5:00 p.m. on June 15, 1992, and bears a United States Post Office postmark dated on or before June 15, 1992.

AMENDATORY SECTION (Amending WSR 91-13-030, filed 6/12/91, effective 7/13/91)

WAC 415-115-080 DETERMINATION OF ADDITIONAL ADMINISTRATIVE FEE. ((~~Every six months,~~)) The department will determine the additional administrative fee that may be assessed to employers who have submitted untimely or inaccurate reports. This fee will be determined as follows:

(1) The department will ((~~determine the total increased~~)) base the additional administrative fee on costs incurred for processing late or inaccurate reports ((~~during the preceding six-month period~~)). Costs related to processing deficient data may include, but are not limited to, costs of personnel, equipment, services and facilities.

(2) The department will determine the total number of deficiencies reported by all employers during each six-month period.

(3) ((~~The department will determine the unit cost for processing each deficiency in reporting for each six-month period. The unit cost is determined by dividing the total cost incurred by the department for processing late or inaccurate reports by the total number of deficiencies in reporting.~~)) Based upon the costs identified in subsection (1) of this section, the department will determine the additional administrative fee to be charged per deficiency.

(4) The department will determine the additional administrative fee to charge each employer ((~~for each six-month period~~)). The total fee shall be an amount equal to the ((~~unit cost for processing each deficiency in reporting~~)) per deficiency fee determined under subsection (3) of this section multiplied by the ((~~total number of~~)) deficiencies reported by an employer.

(5) From time to time, the department may review and adjust the charge calculated under subsection (3) of this section.

(6) Additional administrative fees are due and payable the 15th day of the calendar month following the month that the statement is dated.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-115-110 BILLING OF THE ADDITIONAL ADMINISTRATIVE FEE.

## WSR 92-11-028
### PROPOSED RULES
## SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed May 15, 1992, 10:35 a.m.]

Original Notice.

Title of Rule: Chapter 2 of the Elementary and Secondary School Improvements of 1988, Targeted assistance program for local districts.

Purpose: To ensure compliance by the state of Washington including Superintendent of Public Instruction and local school districts with the provisions of Public Law 100-297.

Other Identifying Information: See Purpose above.

Statutory Authority for Adoption: RCW 28A.300.070.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation and Enforcement: Bettijane McCauley, Superintendent of Public Instruction, Old Capitol Building, (206) 753-1031.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is necessary because of federal law, Public Law 100-297—34 CFR Part 298.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: These WACS are rewritten to reflect the changes in the reauthorization of the Elementary Secondary School Improvement Amendments (ESSIA) of 1988. The WAC changes also reflect the agency's effort to make fiscal procedures the same for the majority of the federal categorical programs.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Superintendent of Public Instruction, Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504, on July 17, 1992, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-7200, by June 23, 1992.

Date of Intended Adoption: July 24, 1992.

May 15, 1992
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-105 PURPOSE. The purpose of this chapter is to ensure compliance by the state of Washington, including the superintendent of public instruction and local school districts, with the provisions of Public Law ((~~97-35, Title V, Subtitle D, Chapter 2— commonly referred to as Chapter 2 of the Education Consolidation and Improvement Act of 1981~~)) 100-297, Elementary Secondary School Improvement Amendments of 1988, Chapter 2, — and its implementing regulations, particularly 34 CFR Part 298.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-115 DEFINITION—CHAPTER 2. As used in this chapter, the term "Chapter 2" shall mean that part of Public Law ((~~97-35~~)) 100-297 which is commonly referred to as Chapter 2 of the ((~~Education Consolidation and Improvement Act of 1981~~)) Elementary and Secondary School Improvement Amendments of 1988.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-120 DEFINITION—ACCOUNTING MANUAL. As used in this chapter, the term Accounting Manual shall mean the Accounting Manual for Public School Districts in the state of Washington issued September ((~~1983~~)) 1989, by the superintendent of public instruction and the state auditor.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-130 DEFINITION—ACTIVITY. As used in this chapter, the term "activity(ies)" shall be as defined in the Accounting Manual glossary of terms (i.e., a "specific line of work carried on by a school district in order to perform its mission"). For financial accounting purposes "activity" shall be defined further as the second field of uniform expenditure classification established in the Accounting Manual for Chapter 2 and shall include all activities listed on Form SPI F-1000B ((~~CH. -2 (Chapter 2 Federal Project Budget)~~)).

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-170 DEFINITION—PROJECT. As used in this chapter, the term "project" ((~~either~~)) shall mean all activities supported with Chapter 2 moneys in either a particular school building or combination of school buildings.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-260 DEFINITION—CONSULTATION WITH PARENTS AND EDUCATORS AND OTHERS ((~~INTERESTED PARTIES~~)). As used in this chapter, the term "consultation with parents and educators and others ((~~interested parties~~))" shall mean planned, systematic contact two or more times a year with parents, teachers, and administrators of children being served by Chapter 2, — including parents, teachers, and administrators of served private school children, — other interested parents, teachers, administrators, ((~~groups, and parties in the design and implementation of the Chapter 2 program, including discussion of program revenue and expenditures~~)) librarians, school counselors, social workers, psychologists, and other pupil personnel deemed appropriate. All of these must be consulted in the allocation of funds for programs authorized by Chapter 2 and in the design, planning, and implementation of these programs.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-304 PRIVATE SCHOOL CHAPTER 2 EQUIPMENT—PROGRAM REQUIREMENT. Each school district that ((~~supplies~~)) provides equipment and materials which is purchased with Chapter 2 moneys to a private school shall retain title to all such equipment and materials and keep on file an inventory supplied by the private school which indicates the location and use of such equipment and materials. The school district will monitor each private school every year to ensure that inventories are maintained according to EDGAR, 34 C.F.R. Subtitle A, section 74.137-74.140.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-310 PARENT, EDUCATOR, AND COMMUNITY INVOLVEMENT IN PROGRAM PLANNING—PROGRAM REQUIREMENT. Each school district that seeks an allocation of funds under Chapter 2 shall ((~~consult~~)) provide for systematic consultation two or more times during the year with parents, teachers, administrators, and educators and other ((~~interested parties in preparing the proposed program design and planning expenditures submitted by~~)) groups involved including librarians, school counselors, social workers, etc., in the design, planning, implementation, and allocation of funds for programs authorized under Chapter 2. The designated local administrator will submit these program plans and budget to the school district board of directors for ((~~adoption~~)) approval. Such consultation shall be documented to demonstrate compliance with this section.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-320 SUBSTANCE OF ANNUAL SCHOOL DISTRICT APPLICATION. The school district's annual application, required by WAC 392-165-315, shall contain the following:

(1) Assurances as required by WAC 392-165-322.

(2) Planned Chapter 2 expenditures by program object and activity in each targeted assistance area as required by WAC 392-165-325.

(3) ((~~Planned expenditures for public and private schools by subchapter program including subchapter A (basic skills), subchapter B (improvement and support services) and subchapter C (special projects) as required by WAC 392-165-327.~~)) Description of the projects, and activities the district has designed to carry out programs under one or more of the following seven targeted assistance areas:

(a) Meeting needs of students at risk;

(b) Acquisition and use of instructional and educational materials;

(c) Innovative programs designed to carry out school-wide improvements and effective schools programs;

(d) Training and professional staff development;

(e) Programs of training to enhance ability of teachers and counselors to identify students with reading problems that place them at risk for illiteracy in their adult years;

(f) Programs to enhance personal excellence of students and student achievement; and

(g) Other innovative projects which would enhance the educational program and climate of a school.

(4) The reasons for selection of such programs, projects, and activities.

(5) Description of how assistance with Chapter 2 dollars will contribute to goals of the program of improving student achievement or improving quality of education for students.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-322 ONE YEAR ASSURANCES. Each school district that receives an allocation of federal funds under Chapter 2 shall submit to the superintendent of public instruction once a year the following:

(1) An assurance of school district compliance with chapter 392-165 WAC.

(2) An assurance that funds received under Chapter 2 shall supplement and not supplant funds available from nonfederal sources.

(3) An assurance that children enrolled in eligible private, nonprofit schools which have submitted a statement of intention to participate in Chapter 2 programs within the district shall be provided equitable participation in benefits of funds received from Chapter 2.

(4) An assurance that the school district shall keep records and provide information to the superintendent of public instruction regarding Chapter 2 programs in such manner as required by the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-325 PLANNED EXPENDITURES BY PROGRAM OBJECT AND ACTIVITY. Each school district's planned expenditures shall be summarized for all Chapter 2 ((~~subchapters~~)) expenditures in each of the seven targeted assistance areas selected by program object and activity on forms provided by the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-330 BOARD APPROVAL((~~—SUBCHAPTER A, B AND C ACTIVITIES~~)). ((~~For each subchapter activity included in the annual application;~~)) The local board of directors shall review and approve ((~~a description of the planned expenditure which indicates the purpose of the program activity, the resources to be allocated to the program activity and the expected outcome of the program activity. Such program expenditure descriptions shall remain on file with the school district and shall be open to inspection~~)) the annual application before submitting it to the office of the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 88-22, filed 10/7/88)

WAC 392-165-340 APPROVED BUDGET VARIANCE—((~~TWENTY~~)) TEN PERCENT ALLOWED. School districts may make annual expenditure adjustments on Form SPI F-1000B by increasing some approved activity-object cell amounts of up to ((~~twenty~~)) ten percent of and decreasing others without filing a request for a budget revision with the superintendent of public instruction provided the increases, in total, do not exceed ((~~twenty~~)) ten percent of the grand subtotal, (i.e., the sum of all objects of expenditure shown on the subtotal line of the approved Federal Project Budget, Form SPI F-1000B) and do not increase the amount of the grand subtotal.

AMENDATORY SECTION (Amending Order 84-6 [Order 88-22], filed 2/29/84 [10/7/88])

WAC 392-165-345 BUDGET REVISIONS—UPDATING PLANNED EXPENDITURES. Except as provided in WAC 392-165-340, each school district shall expend Chapter 2 moneys in accordance with ((~~planned expenditures~~)) the budget documentation and program description included in the application submitted to and approved by the superintendent of public instruction. A school district shall be required to file a request for a ((~~budget revision whenever necessary with the superintendent of public instruction in order to:~~

~~(1) Increase the total expenditure of Chapter 2 moneys; or~~

~~(2) Change approved activity-object cell amounts, in total, by more than twenty percent of the grand subtotal identified in WAC 392-165-340; or~~

~~(3) Expend money in any object or activity where no moneys were budgeted in the original application~~)) revision to its approved budget whenever one of the following circumstances apply:

(1) The district intends to increase expenditure beyond the approved amount;

(2) The district intends to change by more than ten percent of the grand subtotal;

(3) The district intends to expend moneys in any activity or object where no moneys were previously budgeted.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 392-165-347 CHAPTER 2 CARRYOVER PROVISIONS. Local school districts may carry over unobligated Chapter 2 funds to the fiscal year succeeding the year for which they were appropriated. However, local districts are not allowed to do the following:

(1) Carry over a large amount of funds that preclude the district from operating its current Chapter 2 projects successfully; or

(2) Designing current projects to use only a small amount of the allocation to carry over a large amount of funds.

A school district that wishes to carry over fifty percent or more of the allocation shall submit a written plan to the superintendent of public instruction for prior approval by April 30.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-360 SUPERVISORY EXPENDITURES. A school district that charges any portion of supervisory expenditures as a direct expenditure to the Chapter 2 program shall document such expenditures, including the proportion of supervisory FTE so designated and will keep time and effort documentation on all staff paid in part or full time with Chapter 2 funds.

NEW SECTION

WAC 392-165-362 REALLOCATION OF CHAPTER 2 FUNDS. The superintendent of public instruction may reallocate funds to other local districts from a district that does not choose to participate in the Chapter 2 program, a district that has Chapter 2 funds that exceeds the amount required to run a program, or that are recovered by the superintendent of public instruction based on a determination by the state that the local district has failed to spend local Chapter 2 funds in accordance with applicable law. Reallocation of funds may be made only during the fiscal year for which funds were appropriated or during the succeeding fiscal year; must be made in accordance with the purpose of Chapter 2; and must be spent in accordance with the requirements in Chapter 2 federal regulations.

NEW SECTION

WAC 392-165-415 BUDGET REVISION REQUIREMENTS—TWO REVISIONS LIMITATION. Districts may request no more than two budget revisions per school fiscal year.

NEW SECTION

WAC 392-165-420 BUDGET REVISION REQUIREMENTS—FINAL APPROVAL DATE. No budget revisions will be approved after August 31.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-425 CONSTRUCTION ((~~AND PORTABLE LEASE/PURCHASE~~)). ((~~Chapter 2 moneys may be used for the modification of existing facilities and/or for lease/purchase of portable facilities for the purpose of serving Chapter 2 eligible private school children if:~~

~~(1) The district has exhausted every other available option for providing space in which to serve eligible private school children; and~~

~~(2) Modification of facilities or lease/purchase of portable facilities will provide essential improvement in the delivery of Chapter 2 regular services to eligible private school children.~~

~~Such use of moneys shall have prior approval from the superintendent of public instruction which shall be granted only after an on-site visit to the school district to examine existing facilities in order to determine that the above conditions do exist.~~)) No Chapter 2 funds may be used to perform repairs, minor remodeling, or construction of private school facilities. A local school district may use Chapter 2 funds to perform repairs, minor remodeling, or construction of public facilities as may be necessary to carry out its responsibility under this part.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-430 ACQUISITION, CONTROL AND DISPOSITION OF ((~~PROPERTY~~)) EQUIPMENT. ((~~Acquisition, control and disposition of property purchased with Chapter 2 moneys shall be consistent with 34 CFR 298.27(a).~~)) Except to purchase computer hardware for instructional purposes listed in WAC 392-165-325 Chapter 2 funds may not be used to purchase general classroom instructional equipment unless that instructional equipment is used only as a part of a specific program under one of the seven targeted assistance areas and has prior approval on the Chapter 2 application. All equipment purchased from Chapter 2 funds must be labeled "Chapter 2." Inventories must be maintained and updated every two years. Districts will follow all procedures for usage, inventory, and disposition listed in the Education Department General Administration Regulations (EDGAR) 34 C.F.R. 80.32.

AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)

WAC 392-165-460 APPROVAL OF CHAPTER 2 PROGRAM APPLICATION BY THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) Final approval of a Chapter 2 program shall be given to a school district when the superintendent of public instruction has received a completed application in accordance with WAC 392-165-320 through 392-165-327 and 34 CFR ((~~298.7 (a) and (b)~~)) 298.6, 298.11, 298.12-298.14 and is assured that the school district has satisfied all yearly reporting requirements and compliance agreements from the previous year((~~, unless the agreement extends into the current year~~)).

(2) Programs shall not be implemented without ((~~prior~~)) approval from the superintendent of public instruction. The effective approval date shall be July 1, of each year for applications received prior to July 1, or the subsequent date on which the complete application is received by the superintendent of public instruction.

(3) Fiscal expenditures made prior to the effective approval date indicated on an application or a request for budget revision shall not be allowed.

(4) Consistent with P.L. ((~~93-380~~)) 100.297, any school district shall have an opportunity to appeal a decision of the superintendent of public instruction, first to the superintendent of public instruction and then to the United States Secretary of Education.

(5) All districts with approved, nonprofit, private schools within their boundaries must return to the office of the superintendent of public instruction "Participation in Federal Programs" Form 829 for each school by the end of February, as part of their application. Reimbursement and approval will be withheld until all forms are received.

(6) Applications received after November 30 will not be processed and the funds will be reallocated.

AMENDATORY SECTION (Amending Order 86-6, filed 7/18/86)

WAC 392-165-500 ((~~DISTRIBUTION OF~~)) ALLOCATION FORMULA FOR DISTRIBUTION OF EIGHTY PERCENT CHAPTER 2 MONEYS TO LOCAL SCHOOL DISTRICTS. (((~~1~~))) For the purpose of this section, the term:

(((~~a~~))) (1) "Student enrollment" shall mean the head count for public and private schools ((~~and neglected and delinquent institutions~~)) submitted by the school districts to the office of the superintendent of public instruction on October 1 of each prior year.

(((~~b~~))) (2) "Low income student enrollment" shall mean those students who ((~~reside in a school district whose family income meets the definition of low income reported in the statistical policy handbook/office of the federal policy and standards, 4/27/83.~~

~~(c) "Minority population enrollment" shall mean those minority students determined by sight identification or self-identification to be noncaucasian as reported in the P105 report.~~

~~(d) "Gifted enrollment" shall mean three percent of the district student enrollment submitted under (a) of this subsection.~~

~~(e) "Desegregation enrollment" shall mean all students enrolled in school plant facilities affected by plans to alleviate or prevent the racial imbalance of school plant facilities (see WAC 180-26-025 for the definition of racial imbalance). In order for the students enrolled in school plant facility to be counted for the purpose of this section, the school plant facility must meet each of the following conditions:~~

~~(i) The school plant facility must be included within a plan, adopted by the board of directors of the district, to alleviate or prevent racial imbalance within the district;~~

~~(ii) At least ten percent of the students enrolled in each school plant included within the plan meet one or combination thereof of the following:~~

~~(A) Have been reassigned from another school plan for the purpose of alleviating or preventing racial imbalance; and~~

~~(B) Must reside closer in distance to other school plants offering the same grade or program opportunity.~~

~~(iii) At least ten percent of the students enrolled in each school plant included must be minority students.~~

~~The board adopted plan, together with the number of students enrolled in each school plant facility affected, (i.e., desegregation enrollment), shall be transmitted to the superintendent of public instruction in accordance with timelines announced annually by the superintendent of public instruction.~~

~~(f) "Limited English speaking enrollment" shall mean those students who qualify under chapter 392-160 WAC.~~

~~(2) Each year the superintendent of public instruction shall make available for allocations to the school districts eighty percent of Chapter 2 moneys received for allocation during the school year plus such amount as may be carried over from the previous school year's allocation based on a formula which recognizes enrollment and high cost factors as follows:~~

~~(a) Student enrollment. Forty percent of the amount available each year will be made available on the basis of public and private school student enrollment.~~

~~(b) Low income student enrollment. Twenty-five percent of the funds will be made available on the basis of low income student enrollment.~~

~~(c) Minority population enrollment. Ten percent of the funds will be made available based on minority population enrollment.~~

~~(d) Gifted enrollment. Ten percent of the funds will be made available on the basis of gifted enrollment.~~

~~(e) Desegregation enrollment. Ten percent of the funds will be made available on the basis of desegregation enrollment.~~

~~(f) Limited English speaking enrollment. Five percent of the funds will be made available on the basis of limited English speaking enrollment.~~

~~(3) From enrollment information for each of the populations described in subsection (1) of this section submitted by school districts to the superintendent of public instruction, the superintendent of public instruction shall determine the amount to be allocated to each school district~~)) are eligible for a free or reduced price lunch.

The eighty percent allocation formula to all school districts is based on sixty-seven percent enrollment and thirty-three percent low income based on the number of free and reduced price lunches served.

NEW SECTION

WAC 392-165-510 PROGRAM COMPLIANCE REVIEW. The superintendent of public instruction shall conduct program compliance review of all school districts receiving Chapter 2 funds. Reviews shall occur at least once within a four-year plan as established by the superintendent of public instruction. If a school district is not reviewed due to exceptional or uncontrollable circumstances, these districts will have first priority for review the following year.

Following the review the school district will have thirty days to respond to the superintendent of public instruction if there are exceptions. Substantial noncompliance or failure by the school district to respond and/or initiate corrective action in a timely manner shall be subject to actions prescribed in WAC 392-165-440, 392-165-445, and 392-165-450.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-165-240 DEFINITION—BASIC SKILLS.
WAC 392-165-327 PLANNED EXPENDITURES BY SUBCHAPTER PROGRAM.
WAC 392-165-332 BOARD APPROVAL—SUBCHAPTER A ACTIVITIES.
WAC 392-165-342 APPROVED PROGRAM VARIANCE—TWENTY PERCENT ALLOWED.

## WSR 92-11-029
### NOTICE OF PUBLIC MEETINGS
### CONVENTION AND TRADE CENTER
[Memorandum—May 13, 1992]

The board of directors of the Washington State Convention and Trade Center will meet on Wednesday, May 20, 1992, at 2:00 p.m. in Room 309 of the Convention Center, 800 Convention Place, Seattle. If you have any questions regarding this meeting, please call 447-5000.

## WSR 92-11-030
### NOTICE OF PUBLIC MEETINGS
### WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
[Memorandum—May 15, 1992]

On April 29, 1992, the Washington State Workforce Training and Education Coordinating Board adopted a meeting schedule for the remainder of 1992. I have provided those dates below for publication in the Washington State Register.

Tuesday, June 30, 1992
Tuesday, July 28, 1992
Friday, August 28, 1992
Tuesday, September 29, 1992
Wednesday, October 21, 1992
Tuesday, November 24, 1992

## WSR 92-11-031
### NOTICE OF PUBLIC MEETINGS
### LEGAL FOUNDATION OF WASHINGTON
[Memorandum—May 14, 1992]

We previously notified you of 1992 meeting dates for the board of trustees of the Legal Foundation of Washington. At their May board meeting, the previously announced meeting for November 20, 1992, was rescheduled to December 4, 1992. The following lists the remaining meeting dates scheduled for 1992 by the board of trustees of the Legal Foundation of Washington, for publication by the code reviser as required by the Washington Supreme Court.

| | |
|---|---|
| September 25, 1992 | Seattle |
| 9:00 a.m. | Bogle and Gates, Floor 51 |
| | Two Union Square |
| | Sixth and Union |
| November 6, 1992 | Grant Committee Meeting |
| 9:00 a.m. | Seattle, Logan Building |
| | 500 Union |
| December 4, 1992 | Seattle |
| 10:30 a.m. | Bogle and Gates, Floor 51 |
| | Two Union Square |
| | Sixth and Union |

## WSR 92-11-032
### PERMANENT RULES
### WASHINGTON STATE PATROL
[Filed May 15, 1992, 2:21 p.m.]

Date of Adoption: May 1, 1992.

Purpose: To provide safety for the hazardous materials response teams vehicles when they are on the scene of an incident and to warn the motoring public.

Citation of Existing Rules Affected by this Order: Amending WAC 204-38-030 and 204-38-040.

Statutory Authority for Adoption: RCW 46.37.300.

Pursuant to notice filed as WSR 92-05-015 on February 10, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 1, 1992
George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 81-04-01, filed 4/30/81)

WAC 204-38-030 DEFINITIONS. (1) "Flashing" lamps shall include those lamps which emit a beam of light which is broken intermittently and regularly by use of an electronic or electric switch, a rotating reflector, a rotating lamp, or a strobe lamp.

(2) "Other construction and maintenance vehicles" shall mean those vehicles owned or operated by a private company which is in the process of providing highway construction or maintenance services or is working in conjunction with any public utility.

(3) "Pilot cars" shall mean those vehicles which are used to provide escort for overlegal size loads upon the roadways of this state.

(4) "Public utilities vehicles" shall mean those vehicles used for construction, operations, and maintenance, and which are owned or operated by a public or private utility, including, but not limited to, companies providing water, electricity, natural gas, telephone, and television cable services, and railroads.

(5) "Tow trucks" shall mean those vehicle engaged in removing disabled or abandoned vehicles from the roadway and which are used primarily for that purpose.

(6) "Animal control vehicles" shall mean those vehicles, either publicly or privately owned, which are used primarily for transportation of animals to or from animal shelters, humane society facilities, or veterinary medicine facilities.

(7) "Hazardous materials response team vehicles" shall mean those vehicles either publicly or privately owned which are used for responding to hazardous materials incidents.

AMENDATORY SECTION (Amending Order 81-04-01, filed 4/30/81)

WAC 204-38-040 MOUNTING OF LAMPS. One or more flashing amber lamps may be mounted on public utilities vehicles, other construction and maintenance vehicles, pilot cars, tow trucks, ((~~and~~)) animal control vehicles, and hazardous materials response team vehicles. The lamp(s) shall be mounted and shall be of sufficient intensity so as to be clearly visible to approaching traffic for at least five hundred feet in normal sunlight.

The provisions of WAC 204-72-030 and 204-72-040 shall be adhered to as they relate to the mounting of warning lamps.

## WSR 92-11-033
### PERMANENT RULES
### LOTTERY COMMISSION
[Filed May 15, 1992, 4:06 p.m.]

Date of Adoption: May 15, 1992.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 77 ("Three Cards Up"), 78 ("Applebucks"), 79 ("Movie Money"), and 80 ("Bowling for Bucks"); and to amend WAC 315-30-020, 315-30-030, 315-30-040, 315-33A-010, 315-33A-020, 315-34-010, 315-34-020, and 315-34-040.

Citation of Existing Rules Affected by this Order: Amending WAC 315-30-020, 315-30-030, 315-30-040, 315-33A-010, 315-33A-020, 315-34-010, 315-34-020, and 315-34-040.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 92-08-093 on March 31, 1992.

Changes Other than Editing from Proposed to Adopted Version: In the proposed version of WAC 315-11-791(5), the movie video promotion was to offer, among other features, reduced rates on video rentals and purchases. The video promotion was adopted, however, reduced rates on video rentals and purchases were replaced with promotional gifts to be awarded through random drawings.

Effective Date of Rule: Thirty-one days after filing.

May 15, 1992
Evelyn Y. Sun
Director

NEW SECTION

WAC 315-11-770 DEFINITIONS FOR INSTANT GAME NUMBER 77 ("THREE CARDS UP"). (1) Play symbols: The following are the "play symbols": "A"; "K"; "Q"; "J"; "10"; "9"; "7"; "6"; "5"; "4"; "3"; and "2." One of these symbols appears in each of the six play spots on the front of the ticket. The six play spots shall be divided into two separate sets of three horizontally adjoining play spots. Each set of three horizontally adjoining play spots shall be known as a playfield and shall be covered with latex. Each ticket shall have two playfields.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 77, the captions which correspond with and verify the play symbols are:

| PLAY SYMBOL | CAPTION |
|---|---|
| A | ACE |
| K | KNG |
| Q | QUE |
| J | JAK |
| 10 | TEN |
| 9 | NIN |
| 7 | SEV |
| 6 | SIX |
| 5 | FIV |
| 4 | FOR |
| 3 | THR |
| 2 | TWO |

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-Ticket number: The eleven-digit number of the form 07700001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 77 constitute the "pack number" which starts at 07700001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $25.00 and less. For Instant Game Number 77, the retailer verification codes are three-letter codes, with each letter appearing in a varying

three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

| VERIFICATION CODE | PRIZE |
|---|---|
| ONE | $1.00 |
| TWO | $2.00 ($2; $1 & $1) |
| FOR | $4.00 ($4; $2 & $2) |
| NIN | $9.00 ($5 & $4) |
| TTN | $21.00 ($21) |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-771 CRITERIA FOR INSTANT GAME NUMBER 77. (1) The price of each instant game ticket shall be $1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having play symbols in one of the playfields which total one of the following numbers shall win the corresponding prize:

15 - $ 1.00
16 - $ 2.00
17 - $ 4.00
18 - $ 5.00
19 - $21.00
20 - $50.00
21 - $2,500

(b) In determining the total in a playfield, a number play symbol shall count its face value; J, Q, and K shall each count ten and A shall count 11.

(c) Play symbols from one playfield may not be mixed, combined, or intermingled with play symbols from the other playfield.

(d) The bearer of a ticket having a winning set of symbols in both playfields shall win the total amount of the prizes won in each playfield.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 77 set forth in WAC 315-11-772, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 77; and/or

(b) Vary the number of tickets sold in Instant Game Number 77 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-772 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 77. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 77 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the six play spots under the latex covering on the front of the ticket.

(b) Each of the six play symbols must have a caption below it, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

| | |
|---|---|
| Play Symbols | Play Symbol Font |
| Captions | Caption Font |
| Pack-Ticket Number | Validation Font |
| Validation Number | Validation Font |
| Retail Verification Code | Validation Font |

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-770(1) and each of the captions must be exactly one of those described in WAC 315-11-770(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-780 DEFINITIONS FOR INSTANT GAME NUMBER 78 ("APPLEBUCKS"). (1) Play symbols: The following are the "play symbols": ""; ""; ""; ""; ""; ""; ""; and "." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 78, the captions which correspond with and verify the play symbols are:

| PLAY SYMBOL | CAPTION |
|---|---|
|  | SKIER |
|  | MOOSE |
|  | CHRY |
|  | SHIP |
|  | TREE |
|  | FISH |
|  | PLANE |
|  | APPLE |

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 07800001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 78 constitute the "pack number" which starts at 07800001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $25 or less. For Instant Game Number 78, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

| VERIFICATION CODE | PRIZE |
|---|---|
| ONE | $1.00 |
| TWO | $2.00 |
| FOR | $4.00 |
| SVN | $7.00 |
| SVT | $17.00 |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-781 CRITERIA FOR INSTANT GAME NUMBER 78. (1) The price of each instant game ticket shall be $1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

| | | | |
|---|---|---|---|
| Three | play symbols | - Win $ | 1.00 |
| Three | play symbols | - Win $ | 2.00 |
| Three | play symbols | - Win $ | 4.00 |
| Three | play symbols | - Win $ | 7.00 |
| Three | play symbols | - Win $ | 17.00 |
| Three | play symbols | - Win $ | 40.00 |
| Three | play symbols | - Win $ | 80.00 |
| Three | play symbols | - Win $ | 10,000 |

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 78 set forth in WAC 315-11-782, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 78; and/or

(b) Vary the number of tickets sold in Instant Game Number 78 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-782 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 78. (1) A valid instant game ticket for Instant Game Number 78 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations.

(a) Exactly one play symbol must appear in each of the six play spots under the removable latex covering on the front of the ticket.

(b) Each of the six play symbols must have a caption below it, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

| | |
|---|---|
| Play Symbols | Play Symbol Font |
| Captions | Caption Font |
| Pack-Ticket Number | Validation Font |
| Validation Number | Validation Font |
| Retail Verification Code | Validation Font |

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-780(1) and each of the captions must be exactly one of those described in WAC 315-11-780(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-790 DEFINITIONS FOR INSTANT GAME NUMBER 79 ("MOVIE MONEY"). (1) Play symbols: The following are the "play symbols": "$1.00"; "$2.00"; "$4.00"; "$9.00"; "$19.00"; "$50.00"; "$500"; "$5,000." One of these play symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 79, the captions which correspond with and verify the play symbols are:

| PLAY SYMBOL | CAPTION |
|---|---|
| $ 1.00 | ONE DOL |
| $ 2.00 | TWO DOL |
| $ 4.00 | FOR DOL |
| $ 9.00 | NIN DOL |
| $ 19.00 | NIT DOL |
| $ 50.00 | $FIFTY$ |
| $ 500 | FIVHUND |
| $ 5,000 | FIVTHOU |

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 07900001-000 printed on the front of the ticket. The first eight digits of the pack-ticket number for Instant Game Number 79 constitute the "pack number" which starts at 07900001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of $25.00 or less. For Instant Game Number 79, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

| VERIFICATION CODE | PRIZE |
|---|---|
| ONE | $ 1.00 |
| TWO | $ 2.00 |
| FOR | $ 4.00 |
| NIN | $ 9.00 |
| NIT | $19.00 |

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-791 CRITERIA FOR INSTANT GAME NUMBER 79. (1) The price of each instant game ticket shall be $1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

| | | | |
|---|---|---|---|
| Three | $1.00 | play symbols – Win | $1.00 |
| Three | $2.00 | play symbols – Win | $2.00 |
| Three | $4.00 | play symbols – Win | $4.00 |
| Three | $9.00 | play symbols – Win | $9.00 |
| Three | $19.00 | play symbols – Win | $19.00 |
| Three | $50.00 | play symbols – Win | $50.00 |
| Three | $500 | play symbols – Win | $500 |
| Three | $5,000 | play symbols – Win | $5,000 |

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 79 set forth in WAC 315-11-792, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) A movie video promotion shall be offered in conjunction with Instant Game Number 79. The ticket shall contain a message under the latex covering informing the player whether cash or a video promotional gift has been won. Every nonwinning "Movie Money" ticket shall be eligible for entry into drawings for additional promotional gifts. Procedures for redemption of the video promotional gifts and drawings shall be established by the director.

(6) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 79; and/or

(b) Vary the number of tickets sold in Instant Game Number 79 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-792 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 79. (1) A valid instant game ticket for Instant Game Number 79 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations:

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

| | |
|---|---|
| Play Symbols | Play Symbol Font |
| Captions | Caption Font |
| Pack-Ticket Number | Validation Font |
| Validation Number | Validation Font |
| Retail Verification Code | Validation Font |

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-790(1) and each of the captions must be exactly one of those described in WAC 315-11-790(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-800 DEFINITIONS FOR INSTANT GAME NUMBER 80 ("BOWLING FOR BUCKS"). (1) Play symbols: The following are the "play symbols": "140"; "141"; "142"; "143"; "144"; "145"; "146"; "149"; "220"; "221"; "222"; "223"; "224"; "225"; "226"; "229"; "250"; "251"; "252"; "253"; "254"; "255"; "256"; and "259." One of these symbols appears under each of the three play spots under the latex covering in the "your score" column and under each of the three play spots under the latex covering in the "their score" column in the playfield on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. One and only one caption appears under each play symbol. The play symbol captions for Instant Game Number 80 shall consist of the number 1, 2, or 3, in parentheses, to indicate the location of the play symbol in game (row) 1, game (row) 2, or game (row) 3, followed by the three digit numerical play symbol.

(3) Prize symbols: The following are the "prize symbols": "$1.00"; "$2.00"; "$5.00"; "$8.00"; "$40.00"; "$5,000." One of these prize symbols appears in the prize column of each game (row) in the playfield on the front of the ticket.

(4) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. One and only one caption appears under each prize symbol. The number 1, 2, or 3 precedes each caption to indicate the location of the caption in Game 1, Game 2, or Game 3. For Instant Game Number 80, the prize symbols and their corresponding captions are:

| PRIZE SYMBOL | CAPTION |
|---|---|
| $ 1.00 | ONE |
| $ 2.00 | TWO |
| $ 5.00 | FIV |
| $ 8.00 | EGT |
| $40.00 | FORTY |
| $5,000 | FIVTHO |

(5) Validation number: The unique nine-digit random number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The eleven-digit number of the form 08000001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 80 constitute the "pack number" which starts at 08000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $25.00 and less. For Instant Game Number 80, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols and prize symbols on the front of the ticket. The retailer verification codes are:

| VERIFICATION CODE | PRIZE |
|---|---|
| ONE | $1.00 |
| TWO | $2.00 ($1 and $1; $2) |
| FIV | $5.00 ($5) |
| EGT | $8.00 ($5, $2 and $1) |
| SXT | $16.00 ($8 and $8) |

(8) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-801 CRITERIA FOR INSTANT GAME NUMBER 80. (1) The price of each instant game ticket shall be $1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "your score" column that is a larger number than the play symbol in the "their score" column in the same game (row) shall win the prize shown in the prize column for that game (row). The bearer of a ticket having winning play symbols in more than one game (row) shall win the sum of the prizes in each winning game (row). Play symbols in different games (rows) may not be combined to win a prize.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 80 set forth in WAC 315-11-802, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 80; and/or

(b) Vary the number of tickets sold in Instant Game Number 80 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-802 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 80. (1) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 80 shall comply with all of the following validation requirements:

(a) Exactly one play symbol must appear under each of the three rub-off spots in the "your score" column and under each of the three rub-off spots in the "their score" column on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) Exactly one prize symbol for each of the three games (rows) must appear under the rub-off material covering the prize column on the front of the ticket.

(d) Each of the three prize symbols must have a caption below and each must agree with its caption.

(e) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

| | |
|---|---|
| Play Symbols | Play Symbol Font |
| Prize Symbols | Prize Symbol Font |
| Captions | Caption Font |
| Pack-Ticket Number | Validation Font |
| Validation Number | Validation Font |
| Retailer Verification Code | Validation Font |

(f) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-800(1); each of the play symbol captions must be exactly one of those described in WAC 315-11-800(2); each of the prize symbols must be exactly one of those described in WAC 315-11-800(3); and each of the prize symbol captions must be exactly one of those described in WAC 315-11-800(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-30-020 DEFINITIONS. (1) On-line game. A lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols; type and amount of play; and drawing date and receives a computer generated ticket with those selections printed on it. The lottery will conduct a drawing to determine the winning combination(s) in accordance with the rules of the specific game being played. Each ticket bearer whose valid ticket includes a winning combination shall be entitled to a prize if claim is submitted within the specified time period.

(2) On-line retailer. A lottery retailer authorized by the lottery to sell on-line tickets. All on-line retailers also shall sell ((~~all lottery games including but not limited to~~)) instant game tickets offered by the lottery.

(3) On-line ticket. A computer-generated ticket issued by an on-line retailer to a player as a receipt for the combination(s) a player has selected. That ticket shall be the only acceptable evidence of the combination(s) of digits, numbers, or symbols selected. On-line tickets may be purchased only from on-line retailers.

(4) Ticket distribution machine (TDM). The computer hardware through which an on-line retailer enters the combination selected by a player and by which on-line tickets are generated and claims are validated.

(5) Drawing. The procedure determined by the director by which the lottery selects the winning combination in accordance with the rules of the game.

(6) Certified drawing. A drawing about which the lottery and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination occurred.

(7) Winning combination. One or more digits, numbers, or symbols randomly selected by the lottery in a drawing which has been certified.

(8) Validation. The process of determining whether an on-line ticket presented for payment is a winning ticket.

(9) Validation number. The twelve-digit number printed on the front of each on-line ticket which is used for validation.

(10) Ticket bearer. The person who has signed the on-line ticket or who has possession of an unsigned ticket.

(11) Metropolitan area. Benton, Clark, Franklin, King, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties. (These geographic areas have been identified as the metropolitan statistical areas in the state of Washington by the Federal Committee on Standard Metropolitan Statistical Areas of the Office of Management and Budget.)

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-30-030 ON-LINE GAMES CRITERIA. (1) The base price of an on-line ((~~ticket~~)) play shall not be less than $.50 and not more than $5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer claiming a prize shall submit the apparent winning ticket as specified by the director. The ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line retailer through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of $600.00 or less, the claimant shall present the winning on-line ticket to any on-line retailer or to the lottery.

(i) If the claim is presented to an on-line retailer, the on-line retailer shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim

shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than $600.00, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

AMENDATORY SECTION (Amending Order 116, filed 6/1/89)

WAC 315-30-040 DRAWINGS AND END OF SALES PRIOR TO DRAWINGS. (1) Drawings shall be conducted in a location and at days and times designated by the director. Each on-line drawing script shall contain the statement, "Digits/numbers/symbols drawn are not official until validated."

(2) The director shall announce for each type of on-line game the time for the end of sales prior to the drawings. TDMs will not process orders for on-line tickets for that drawing after the time established by the director.

(3) The director shall designate the type of equipment to be used and shall establish procedures to randomly select the winning combination for each type of on-line game.

(4) The equipment used to determine the winning combination shall not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be certified until all checks are completed. No prizes shall be paid until after the drawing is certified.

(5) ((~~All drawings shall be broadcast live on television provided the facilities for such broadcasts are available and operational and broadcast time is available.~~

~~(6)~~)) The director shall establish procedures governing the conduct of drawings for each type of on-line game. The procedures shall include provisions for deviations which include but are not limited to: (a) Drawing equipment malfunction before validation of the winning combination; (b) video and/or audio malfunction during the drawing; (c) fouled drawing; (d) delayed drawing; and (e) other equipment, facility and/or personnel difficulties.

((~~(7)~~)) (6) In the event a deviation occurs, the drawing will be completed under lottery supervision. If the drawing was to be broadcast, the drawing shall be video taped for later broadcast, if broadcast time is available. The drawing shall be certified and the deviation documented on the certification form. The winning combination will be provided to the television network for dissemination to the public.

((~~(8)~~)) (7) If during any live-broadcasted drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all digits, numbers, or symbols, a "foul" shall be called by the lottery drawing official. Any digit/number/symbol drawn prior to a "foul" being called will stand and be deemed official after passing lottery validation tests.

((~~(9)~~)) (8) The director shall delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment shall be made after an investigation is completed and the drawing certified. If the drawing is not certified, another drawing will be conducted to determine the actual winner.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-33A-010 DEFINITIONS FOR QUINTO. (1) Card suit: Heart, diamond, club, or spade symbol.

(2) Number: Any integer from 2 through 10 inclusive and jack, queen, king, or ace.

(3) Set: One number and one card suit.

(4) Play: One selection of five sets.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-33A-020 PRICE OF QUINTO ((~~TICKET~~)) PLAY. The price of each Quinto ((~~ticket~~)) play shall be $1.00 ((~~and shall contain one five set play~~)). Each Quinto ticket shall contain at least one, but not more than five Quinto plays.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

WAC 315-34-010 DEFINITIONS FOR LOTTO. (1) Number: Any play integer from 1 through 49 inclusive.

(2) Game grids: A field of the 49 numbers found on the play slip.

(3) Play: One selection of six numbers.

(4) Pair: Two plays.

(5) Play slip: A mark-sense game card used by players of Lotto to select plays. There shall be ten game grids on each play slip identified as A, B, C, D, E, F, G, H, I, and J.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

WAC 315-34-020 PRICE OF LOTTO ((~~TICKET~~)) PLAY. The price of each Lotto ((~~ticket~~)) play shall be ((~~$1.00~~)) $.50 and shall ((~~contain two~~)) be sold only in pairs for $1.00. One ticket shall contain at least two but not more than ten plays. A player may use a play slip to purchase up to ((~~five tickets~~)) ten plays per ticket as follows:

1 ((~~ticket~~)) pair: $1 - game grids A and B.
2 ((~~tickets~~)) pairs: $2 - game grids A, B, C, and D.
3 ((~~tickets~~)) pairs: $3 - game grids A, B, C, D, E, and F.
4 ((~~tickets~~)) pairs: $4 - game grids A, B, C, D, E, F, G, and H.
5 ((~~tickets~~)) pairs: $5 - game grids A, B, C, D, E, F, G, H, I, and J.

AMENDATORY SECTION (Amending WSR 92-07-014, filed 3/6/92, effective 4/6/92)

WAC 315-34-040 PRIZES FOR LOTTO. (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, third and fourth prize categories vary due to parimutuel calculation of prizes. ((~~The prize amounts are based on the total amount in the prize pool for that Lotto drawing distributed over the number of winning tickets in each category.~~))

| WINNING COMBINATIONS | PRIZE CATEGORIES | ODDS OF WINNING (ONE PLAY) |
|---|---|---|
| All six winning numbers in one play | First Prize (Jackpot) | 1:13,983,816 |
| Any five but not six winning numbers in one play | Second Prize | 1:54,201 |
| Any four but not five or six winning numbers in one play | Third Prize | 1:1,033 |
| Any three but not four, five or six winning numbers in one play | Fourth Prize | 1:57 |

(2) Prize allocation. The prize allocation consists of forty-eight percent of Lotto revenue. The prize allocation will be divided between the prize pool and the prize reserve as follows: Prize pool— forty-six percent of Lotto revenue; prize reserve—two percent of Lotto revenue.

(3) Prize amounts.

(a) First prize (jackpot). ((~~Sixty-four percent of the prize pool is to~~)) The first prize will be the amount announced by the director as the lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence). The director may ((~~increase the cash value of the jackpot by an amount not to exceed the amount in the prize reserve~~)) utilize the prize reserve to augment the cash available to fund the jackpot prize. Any revenue remaining in the prize pool after providing sufficient moneys for payment of all first, second, third, and fourth prizes of that drawing shall be placed in the lotto prize reserve for use pursuant to the terms of WAC 315-34-040 (3)(e).

(b) Second prize. Five percent of the prize pool is to be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. Ten percent of the prize pool is to be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. Twenty-one percent of the prize pool is to be divided equally among all players who selected three of the six winning numbers in one play (in any sequence).

(e) Prize reserve. The prize reserve will be held for payment of prizes at the discretion of the director.

(f) All prizes will be rounded to the nearest dollar. The remainder or shortages, if any, from the rounding process shall be placed in or taken from the prize reserve.

(g) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(h) The holder of two or more jackpot winning tickets with a cumulative total cash value of $250,000 or more may elect to receive a single prize based on the total cash value with prize payments in accordance with subsection (5)(a) or (b) of this section.

(i) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

(4) Roll-over feature.

(a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(c) If no player selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(d) If no player selects three of the six winning numbers for any given drawing, the fourth prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments will be made in accordance with WAC 315-30-030(6).

(a) Each prize that has a cash value of $500,000 or more shall be paid in twenty annual payments.

(b) Each prize that has a cash value of more than $250,000 but less than $500,000 shall, at the discretion of the director, be paid either in ten annual payments or twenty annual payments.

(c) Each prize that has a cash value of $250,000 or less shall be paid in a single payment.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form designated by the director.

## WSR 92-11-034
### NOTICE OF PUBLIC MEETINGS
### BELLINGHAM TECHNICAL COLLEGE
[Memorandum—May 18, 1992]

BOARD OF TRUSTEES
REGULAR MEETING
BUILDING G - 9 A.M.
MAY 21, 1992

In keeping with RCW 42.30.110, the board of trustees will convene an executive session for one hour to review professional negotiations and personnel matters. Action may be taken, if necessary, as a result of items discussed in the executive session.

PLEASE NOTE: From approximately 10–11 a.m., board members are scheduled to visit the following programs: Licensed practical nursing, office technology, parent education, cashier checker, and fashion merchandising.

## WSR 92-11-035
### PROPOSED RULES
### BOARD OF PILOTAGE COMMISSIONERS
[Filed May 18, 1992, 2:50 p.m.]

Continuance of WSR [92-08-048].

Title of Rule: WAC 296-116-185 Tariffs and pilotage rates for the Grays Harbor pilotage district.

Purpose: To amend the pilotage tariff rate.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: RCW 88.16.035.

Summary: The proposed amendment reflects a 5% increase in the Grays Harbor pilotage district.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Washington State Board of Pilotage Commissioners, Pier 52, Colman Dock, Seattle, 464-7818.

Name of Proponent: Grays Harbor Pilotage Association, private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule would increase the tariff for pilotage services in the Grays Harbor pilotage district by 5%.

Proposal Changes the Following Existing Rules: Reflects a 5% increase over the existing rule.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Conference Room, Pier 52, Colman Dock, Seattle, Washington 98104, on June 11, 1992, at 9:00 a.m.

Submit Written Comments to: Admiral Chet Richmond, Pier 52, Colman Dock, 801 Alaskan Way, Seattle, WA 98104-1487, by June 1, 1992.

Date of Intended Adoption: June 11, 1992.

May 15, 1992
Susan P. Jensen
Assistant Attorney General

## WSR 92-11-036
### WITHDRAWAL OF PROPOSED RULES
### OFFICE OF THE ATTORNEY GENERAL
[Filed May 18, 1992, 3:13 p.m.]

Pursuant to RCW 34.05.335(1) please withdraw our previously proposed rules identified as new section WAC 44-10-020 Consumer receipt of lemon law rights notice and new section WAC 44-10-205 Compliance with arbitration decision. These sections were proposed in WSR 91-22-080. Based on substantive oral and written comments at the December 16, 1991, public rules hearing and we have chosen to reconsider these provisions and their suggested modifications. Future proposed rules, if any, addressing these areas will be submitted in accordance with RCW 34.05.320.

Ken Eikenberry
Attorney General

## WSR 92-11-037
### PERMANENT RULES
### OFFICE OF THE ATTORNEY GENERAL
[Filed May 18, 1992, 3:15 p.m.]

Date of Adoption: May 18, 1992.

Purpose: To provide a contextual definition of "subsequent transferee"; clarification of arbitration special master powers.

Citation of Existing Rules Affected by this Order: Amending WAC 44-10-010 and 44-10-060.

Statutory Authority for Adoption: RCW 19.118.080 and 19.118.090.

Pursuant to notice filed as WSR 91-22-080 on November 5, 1991.

Changes Other than Editing from Proposed to Adopted Version: WAC 44-10-010, "new" inserted in phrase "motor vehicle" to maintain consistency with RCW 19-.118.021 definitions and caselaw; and WAC 44-10-060, global modification of "arbitration service" to "arbitration board," deletion of reference to special master appointment after attorney general assignment to arbitration service, and issues to be decided by arbitration special master addition of phrase "or matters necessary for compliance with the arbitration decision." The changes

are the result of written and oral comments received at the December 16, 1991, public hearing.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1992
Kenneth O. Eikenberry
Attorney General

AMENDATORY SECTION (Amending Order 87-4, filed 12/22/87)

WAC 44-10-010 DEFINITIONS. Terms, when used in this chapter, shall have the same meaning as terms used in chapter 19.118 RCW. The following definitions shall supplement or aid in the interpretation of the definitions set forth in chapter 19.118 RCW.

(1) The phrase "arbitration service" means the agency, firm, board, organization, individual or other entity selected by the attorney general through a request for proposal to conduct the arbitrations provided under chapter 19.118 RCW.

(2) The phrase "arbitration special master" means the individual or group of individuals selected by the arbitration service to hear and decide special issues timely brought before the arbitration service by the parties.

(3) The terms "attorney general" or "attorney general's office" means the person duly elected to serve as attorney general of the state of Washington and delegates authorized to act on his or her behalf.

(4) The term "person" includes every natural person, firm, partnership, corporation, association, or organization.

(5) "Subsequent transferee" means a consumer that acquires a new motor vehicle and any remaining warranty coverage during the applicable manufacturer's written warranty period.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89, effective 8/24/89)

WAC 44-10-060 POWERS AND DUTIES OF ARBITRATION SPECIAL MASTER. (1) ((~~One or more arbitration special masters shall be appointed by the arbitration service to hear and decide preliminary and post-hearing issues that must be resolved, including but not limited to:~~)) An arbitration special master may be appointed by the arbitration board to hear and decide preliminary and post-hearing issues which are within the arbitration board's authority. Requests for an arbitration special master may be made by either party, jointly or by the arbitration service. However, no arbitration special master may be appointed after the arbitration decision unless requested within twenty (20) days after the date of mailing of the arbitration decision or by the date the manufacturer receives the notice of acceptance from the arbitration service, whichever occurs first. Post-hearing arbitration special masters shall not resolve matters previously presented in the arbitration hearing and addressed in the arbitration decision.

(2) Issues which may be decided by the arbitration special master include but are not limited to: Motions to quash subpoenas, motions for telephone conference hearings, requests for continuances, requests to view the vehicle, request to set aside default determinations, resolution of factual disputes effecting an arbitration award including specification of the award amounts which could not have been or were not resolved at the arbitration hearing or matters necessary for compliance with the arbitration decision. The arbitration special master may conduct telephonic conferences with a party or parties, as appropriate, and may request additional written information in order to rule on issues.

((~~2~~)) (3) Arbitration special masters shall sign a written oath prior to their appointment as arbitration special master attesting to their impartiality. There shall be no ex parte communication initiated by a party with an ((~~between such party and the~~)) arbitration special master.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 92-11-038
### WITHDRAWAL OF PROPOSED RULES
### DEPARTMENT OF ECOLOGY
### (By the Code Reviser's Office)

[Filed May 19, 1992, 8:05 a.m.]

WAC 173-183-350, proposed by the Department of Ecology in WSR 91-22-108, appearing in issue 91-22 of the State Register, which was distributed on November 20, 1991, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

## WSR 92-11-039
### WITHDRAWAL OF PROPOSED RULES
### DEPARTMENT OF GENERAL ADMINISTRATION
### (By the Code Reviser's Office)

[Filed May 19, 1992, 8:07 a.m.]

WAC 236-12-011, proposed by the Department of General Administration in WSR 91-22-091, appearing in issue 91-22 of the State Register, which was distributed on November 20, 1991, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

## WSR 92-11-040
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 91-44—Filed May 19, 1992, 8:51 a.m.]

Continuance of WSR 92-03-127.

Title of Rule: Chapter 173-303 WAC, Dangerous waste regulations amendment.

Purpose: WAC 173-303-145 Spills and discharge, is being amended in response to a petition by the federal Department of Energy.

Other Identifying Information: Original adoption date May 19, 1992, rescheduled for July 7, 1992.

Date of Intended Adoption: July 7, 1992.

May 15, 1992
Fred Olson
Deputy Director

## WSR 92-11-041
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 92-29—Filed May 19, 1992, 9:03 a.m.]

Original Notice.

Title of Rule: Repealing chapter 173-201 WAC and replacing it with chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

Purpose: To establish water quality standards for surface waters of the state consistent with public health and public enjoyment thereof, and the propogation [propagation] and protection of fish, shellfish and wildlife, pursuant to the provisions of chapter 90.48 RCW and the policies established thereof.

Other Identifying Information: To improve the regulation's structural efficiency, it is necessary to change the title to new chapter 173-201A WAC.

Statutory Authority for Adoption: Chapter 90.48 RCW.

Statute Being Implemented: Chapter 90.48 RCW.

Summary: The Department of Ecology is proposing revisions to the state's surface water quality standards which will improve their effectiveness in protecting water quality in accordance with the purpose and authority established by chapter 90.48 RCW, Water Pollution Control Act.

Reasons Supporting Proposal: Authority and mandate to protect water quality as established by chapter 90.48 RCW; state commitments to the USEPA to carry out provisions of the Clean Water Act; and revisions consistent with existing state standards for the protection of surface water.

Name of Agency Personnel Responsible for Drafting: Mark Hicks, Prudential Building, 438-7087; Implementation and Enforcement: Michael T. Llewelyn, Prudential Building, 438-7090.

Name of Proponent: Department of Ecology, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule has complied with the requirements of RCW 90.70.080.

Rule is necessary because of federal law, Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, see Section 303(c).

Explanation of Rule, its Purpose, and Anticipated Effects: The Department of Ecology is proposing revisions to the state's surface water quality standards regulation, chapter 173-201 WAC. These revisions are designed to provide improved protection for water quality, in accordance with the purpose and authority established by chapter 90.48 RCW, Water Pollution Control Act.

Proposal Changes the Following Existing Rules: Key elements of this revision include correction of typographical errors, restructuring of subsections, and minor language clarifications; repealing and replacing the existing rule citation (chapter 173-201 WAC) as chapter 173-201A WAC; updating the state's antidegradation policy; adopting aquatic life toxic criteria for four substances; revised language clarifying the applicability of the standards to nonpoint sources and stormwater; establishing criteria on allowing mixing zones for waste discharges; upgrading Totten Inlet and Little Skookum Inlet and the Lower Cedar River to Class AA; clarifying the intent to use toxicity testing and biological assessments to ensure aquatic life protection; and adding special temperature condition to the Skagit River Gorge bypass.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

INTRODUCTION

This document summarizes the small business economic impact statement (SBEIS) written for the amendments to the state surface water quality standards. The full SBEIS may be obtained from ecology's water quality program.

The state Regulatory Fairness Act requires that a SBEIS be written for rules which have an economic impact on more than twenty percent of all industries or more than ten percent of any one industry. The SBEIS must describe the costs of complying with the rule. It must compare the compliance costs of small and large businesses to determine whether the rule disproportionately impacts small business.

A small business is defined as a profit-seeking enterprise, which is independently owned and operated from all other businesses, and which has fifty or fewer employees.

AMENDMENTS TO THE SURFACE WATER QUALITY STANDARDS

The Clean Water Act requires that states review their surface water quality standards at least once every three years. As a result of this review, many amendments have been made to the standards. There are seven primary amendments to the standards that cause economic impacts: WAC 173-201A-040(2), whole effluent toxicity testing and bioassessments for aquatic life protection; 173-201A-040(3), additional aquatic life criteria; 173-201A-040(6), human health risk level for establishing criteria for carcinogens; 173-201A-100, mixing zones; 173-201A-130(6), reclassification of Lower Cedar River; 173-201A-130(93), special condition for Skagit River; and 173-201A-140(25), reclassification of Totten Inlet.

CONCLUSIONS OF ECONOMIC ANALYSIS

Aquatic Life Toxic Criteria: The amendment to the water quality standards that adds numeric criteria for ammonia, arsenic, and chloride and that revises the criteria for selenium makes no change in the way ecology regulates industrial NPDES permit holders. Most dischargers of these pollutants have already been required to bring their discharges into compliance with effluent limits. Therefore, this amendment imposes no additional costs on permit holders. Also, most dischargers of these pollutants are large businesses.

This amendment has no immediate impact on holders of permits for industrial stormwater. The level of BMPs/treatment needed for ammonia, arsenic, and chloride is likely to be the same as that presently

needed by industrial stormwater dischargers for meeting existing toxic criteria.

This amendment has little impact on agriculture and forestry because these two industries are not significant dischargers of these three pollutants. The amendment also has little impact on urban stormwater dischargers. The addition of criteria for the three new toxics is not expected to result in an increase in the level of BMPs/treatment needed for urban stormwater.

Whole Effluent Toxicity Testing and Bioassessments: Most of the industrial NPDES permit holders that will potentially be required to conduct whole effluent toxicity testing and bioassessments and to comply with whole effluent toxicity limits are large businesses. Only a few chemical companies, woodpreservers, and ore mines might be small. All apple warehouses are small (although only a few of these businesses will likely have to do this testing). Few of the small businesses that hold NPDES permits will incur costs due to toxicity testing requirements. The economic impact of both testing and compliance costs is primarily on large businesses.

Few holders of industrial stormwater permits will be required to conduct whole effluent toxicity testing or bioassessment.

It is extremely unlikely that whole effluent toxicity testing and bioassessments would be used on a regular basis in regulating nonpoint sources such as agriculture, forestry, and urban stormwater.

Human Health Risk Level for Establishing Criteria for Carcinogens: Nearly all of the industrial NPDES permit holders that discharge carcinogens are large businesses. Only a few chemical companies, woodpreservers, and ore mines might be small. Few if any of the small businesses that hold NPDES permits will incur costs due to carcinogen regulation. The economic impact of these requirements is nearly exclusively on large permit holders.

The amendment has only a minor immediately effect on nonpoint source dischargers. The chief nonpoint source dischargers of carcinogens are agriculture, forestry, and urban stormwater.

Mixing Zones: The amendments to the mixing zone provisions of the standards do not significantly alter the cost of complying with water quality-based effluent limits. Fundamentally, these amendments only place departmental guidance into the rule.

Reclassification of Lower Cedar River and Totten Inlet: Few point source dischargers are located on these two waterbodies. No point source dischargers are affected by the reclassifications.

The reclassifications will have little or no impact on nonpoint source polluters such as agriculture, boating, construction, forestry, septic tanks, and urban stormwater. For these sources, whether a waterbody is Class A or AA is not a significant concern in determining the extent of the pollution problem or in determining the measures needed to solve it.

Special Condition for Skagit River: The only discharger—whether point source or nonpoint source—located on the segment of the Skagit River that the special condition for temperature applies to is a state highway. It is not affected by the addition of the special condition because highway runoff is not a significant source of thermal pollution. Also, the special condition relaxes the temperature criteria, thus lowering costs.

MITIGATION OF IMPACT ON SMALL BUSINESS

Aquatic Life Toxic Criteria: The addition to the water quality standards of numeric criteria for ammonia, arsenic, and chloride and the revision of the criteria for selenium result in no new impacts on any point or nonpoint source dischargers. This amendment does not affect businesses, governments, or individuals. It has no impact on small businesses. Because the amendment has no impact on small businesses, there is no need to mitigate its impact.

Whole Effluent Toxicity Testing and Bioassessments: Most of the industrial NPDES permit holders that will potentially be required to conduct whole effluent toxicity testing and bioassesssments and to comply with whole effluent toxicity limits are large businesses. Because this amendment chiefly impacts large businesses rather than small businesses, there is no need to mitigate its impact.

Human Health Risk Level for Establishing Criteria for Carcinogens: Nearly all of the industrial dischargers affected by this amendment are large businesses. Because this amendment chiefly impacts large businesses rather than small businesses, there is no need to mitigate its impact.

Mixing Zones: In general, the mixing zone amendments have no impact on any point source dischargers. They do not affect businesses, governments, or individuals. They have no impact on small businesses. Because the amendments have no impact on small businesses, there is no need to mitigate their impact.

Mixing zones can be used to mitigate the impact of the water quality standards on businesses and governments—whether they are small or large. Mixing zones are inherently mitigation. There purpose is to decrease the impact of the water quality standards on dischargers. By allowing exceedances of the standards within the mixing zone, treatment costs are reduced.

Reclassification of Lower Cedar River and Totten Inlet: The reclassifications so these two waterbodies will have no impact on any point or nonpoint source dischargers. They do not affect businesses, governments, or individuals. They have no impact on small businesses. Because the reclassifications have no impact on small businesses, there is no need to mitigate their impact.

Special Condition for Skagit River: The addition of the special condition for temperature has no impact on any point or nonpoint source dischargers. It relaxes the temperature criteria, thus lowering costs. It does not affect businesses, governments, or individuals. It has no impact on small businesses. Because it has no impact on small businesses, there is no need to mitigate its impact.

COMPLETE VERSION OF THE SBEIS

For a complete copy of the small business economic impact statement, contact: Marks Hicks, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (206) 438-7087.

Hearing Location: July 21, Moses Lake, Washington, PUD Auditorium, 312 West 3rd, at 7:00 p.m.; and on July 22, Bellevue, Washington, Ecology NWRO, 3190 160th Avenue S.E., at 7:00 p.m.

Submit Written Comments to: Mark Hicks, Water Quality Program, Department of Ecology, P.O. Box 47600, by July 30, 1992.

Date of Intended Adoption: October 7, 1992.

May 18, 1992
Fred Olson
Deputy Director

## Chapter 173-201A WAC
## WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF WASHINGTON

WAC


173-201A-010 Introduction.
173-201A-020 Definitions.
173-201A-030 General water use and criteria classes.
173-201A-040 Toxic substances.
173-201A-050 Radioactive substances.
173-201A-060 General considerations.
173-201A-070 Antidegradation.
173-201A-080 Outstanding resource waters.
173-201A-100 Mixing zones.
173-201A-110 Short-term modifications.
173-201A-120 General classifications.
173-201A-130 Specific classifications—Freshwater.
173-201A-140 Specific classifications—Marine water.
173-201A-150 Achievement considerations.
173-201A-160 Implementation.
173-201A-170 Surveillance.
173-201A-180 Enforcement.


NEW SECTION

WAC 173-201A-010 INTRODUCTION. (1) The purpose of this chapter is to establish water quality standards for surface waters of the state of Washington consistent with public health and public enjoyment thereof, and the propagation and protection of fish, shellfish, and wildlife, pursuant to the provisions of chapter 90.48 RCW and the policies and purposes thereof.

(2) This chapter shall be reviewed periodically by the department and appropriate revisions shall be undertaken.

(3) The water use and quality criteria set forth in WAC 173-201A-030 through 173-201A-140 are established in conformance with present and potential water uses of the surface waters of the state of Washington and in consideration of the natural water quality potential and limitations of the same. Compliance with the water quality standards of the state of Washington require compliance with chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, and chapter 173-204 WAC, Sediment management standards.

NEW SECTION

WAC 173-201A-020 DEFINITIONS. The following definitions are intended to facilitate the use of chapter 173-201A WAC:

"Acute conditions" are changes in the physical, chemical, or biologic environment which are suspected of being capable of resulting in lethality to an organism after generally less than a ninety-six hour exposure period. Acute conditions may be measured by acute toxicity test(s) approved by the department.

"AKART" is an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices," typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement. "The Stormwater Management Manual for the Puget Sound Basin" (1992), may be used as a guideline, to the extent appropriate, for developing best management practices to apply AKART for storm water discharges.

"Background conditions" means the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration. Background sampling locations in an enforcement action would be upgradient or outside the area of influence of the discharge. If several discharges to any water body exist, and enforcement action is being taken for possible violations to the standards, background sampling would be undertaken immediately upgradient from each discharge. When assessing background conditions in the headwaters of a disturbed watershed it may be necessary to use the background conditions of a neighboring or similar watershed as the reference conditions.

"Best management practices (BMP)" means physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges.

"Biological assessment" is an evaluation of the biological condition of a water body using surveys of aquatic community structure and function and other direct measurements of resident biota in surface waters.

"Chronic conditions" are changes in the physical, chemical, or biologic environment which are suspected of being capable of resulting in lethal or sublethal deleterious effects to an organism during its lifetime. Generally the concept of chronic exposure refers to exposure periods greater than ninety-six hours or to exposure during a critical life stage of an organism. Chronic conditions may be measured by chronic toxicity test(s) approved by the department.

"Critical condition" is when the physical, chemical, and biological characteristics of the receiving water environment interact with the effluent to produce the greatest potential adverse impact on aquatic biota and existing or characteristic water uses.

"Damage to the ecosystem" means any demonstrated or predicted stress to aquatic or terrestrial organisms or communities of organisms which the department reasonably concludes may interfere in the health or survival success or natural structure of such populations. This stress may be due to, but is not limited to, alteration in habitat or changes in water temperature, chemistry, or turbidity, and shall consider the potential build up of discharge constituents or temporal increases in habitat alteration which may create such stress in the long-term.

"Department" means the state of Washington department of ecology.

"Director" means the director of the state of Washington department of ecology.

"Fecal coliform" means that portion of the coliform group which is present in the intestinal tracts and feces of warm-blooded animals as detected by the product of acid or gas from lactose in a suitable culture medium within twenty-four hours at 44.5 plus or minus 0.2 degrees Celsius.

"Geometric mean" means the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

"Hardness" means a measure of the calcium and magnesium salts present in water. For purposes of this chapter, hardness is measured in milligrams per liter and expressed as calcium carbonate ($CaCO_3$).

"Mean detention time" means the time obtained by dividing a reservoir's mean annual minimum total storage by the thirty-day ten-year low-flow from the reservoir.

"Migration or translocation" means any natural movement of an organism or community of organisms from one locality to another locality.

"Mixing zone" means that portion of a water body adjacent to an effluent outfall where mixing results in the dilution of the effluent with the receiving water. Water quality criteria may be exceeded in a mixing zone as conditioned and provided for in WAC 173-201A-100.

"Natural conditions" or "natural background levels" means surface water quality that was present before any human-caused pollution.

"Nonpoint source" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including but not limited to atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

"Permit" means a document issued pursuant to RCW 90.48.160 et seq. or RCW 90.48.260 or both, specifying the waste treatment and control requirements and waste discharge conditions.

"pH" means the negative logarithm of the hydrogen ion concentration.

"Primary contact recreation" means activities where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and water skiing.

"Secondary contact recreation" means activities where a person's water contact would be limited (wading or fishing) to the extent that bacterial infections of eyes, ears, respiratory, or digestive systems or urogenital areas would normally be avoided.

"Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed infiltration facility.

"Surface waters of the state" includes lakes, rivers, ponds, streams, inland waters, saltwaters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

"Temperature" means water temperature expressed in degrees Celsius (°C).

"Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

"Upwelling" means the process by which deep water is brought to the surface. It occurs wherever there is divergent flow at the surface. Continuity requires upward vertical flow to replace the water lost by the surface divergence. In the Northern Hemisphere water moves at approximate right angles to the wind due to the Coriolis effect. Thus, maximum wind induced coastal upwelling occurs when the wind is parallel to the shoreline. Wind induced upwelling occurs along the Washington coast during the summer months when north-northwesterly winds are dominant. During these upwelling periods, water from about 100-300 meters is brought up into the Straits of Juan de Fuca and proceeds to enter Puget Sound along the bottom via Admiralty Inlet. This water, colder, higher in salinity and nutrients, and lower in dissolved oxygen, begins to mix with the surface waters as it passes through the Inlet. As a result, the average salinity of the waters of all Puget Sound can at times exhibit a salinity maximum around September – October, and sometimes is accompanied by a depression in dissolved oxygen and an elevation in nutrients. Upwelling can occur whenever colder water from below is forced upward in areas where tidal currents are deflected upward by underwater ridges, shoals, sills, and other bathymetric features. This type of upwelling tends to be more localized than wind induced upwelling.

"USEPA" means the United States Environmental Protection Agency.

"Wildlife habitat" means waters of the state used by, or that directly or indirectly provide food support to, fish, other aquatic life, and wildlife for any life history stage or activity.

NEW SECTION

WAC 173-201A-030 GENERAL WATER USE AND CRITERIA CLASSES. The following criteria shall apply to the various classes of surface waters in the state of Washington:

(1) Class AA (extraordinary).

(a) General characteristic. Water quality of this class shall markedly and uniformly exceed the requirements for all or substantially all uses.

(b) Characteristic uses. Characteristic uses shall include, but not be limited to, the following:

(i) Water supply (domestic, industrial, agricultural).

(ii) Stock watering.

(iii) Fish and shellfish:

Salmonid migration, rearing, spawning, and harvesting.
Other fish migration, rearing, spawning, and harvesting.
Clam, oyster, and mussel rearing, spawning, and harvesting.
Crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing, spawning, and harvesting.
(iv) Wildlife habitat.
(v) Recreation (primary contact recreation, sport fishing, boating, and aesthetic enjoyment).
(vi) Commerce and navigation.
(c) Water quality criteria:
(i) Fecal coliform organisms:
(A) Freshwater – fecal coliform organism levels shall both not exceed a geometric mean value of 50 colonies/100 mL and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 100 colonies/100 mL.
(B) Marine water – fecal coliform organism levels shall both not exceed a geometric mean value of 14 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 43 colonies/100 mL.
(ii) Dissolved oxygen:
(A) Freshwater – dissolved oxygen shall exceed 9.5 mg/L.
(B) Marine water – dissolved oxygen shall exceed 7.0 mg/L. When natural conditions, such as upwelling, occur, causing the dissolved oxygen to be depressed near or below 7.0 mg/L, natural dissolved oxygen levels may be degraded by up to 0.2 mg/L by human-caused activities.
(iii) Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.
(iv) Temperature shall not exceed 16.0°C (freshwater) or 13.0°C (marine water) due to human activities. Temperature increases shall not, at any time, exceed $t=23/(T+5)$ (freshwater) or $t=8/(T-4)$ (marine water).
When natural conditions exceed 16.0°C (freshwater) and 13.0°C (marine water), no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C.
For purposes hereof, "t" represents the maximum permissible temperature increase measured at a dilution zone boundary; and "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge.
Provided that temperature increase resulting from nonpoint source activities shall not exceed 2.8°C, and the maximum water temperature shall not exceed 16.3°C (freshwater).
(v) pH shall be within the range of 6.5 to 8.5 (freshwater) or 7.0 to 8.5 (marine water) with a human-caused variation within a range of less than 0.2 units.
(vi) Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
(vii) Toxic, radioactive, or deleterious material concentrations shall be below those which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department (see WAC 173-201A-040 and 173-201A-050).
(viii) Aesthetic values shall not be impaired by the presence of materials or their effects, excluding those of natural origin, which offend the senses of sight, smell, touch, or taste.
(2) Class A (excellent).
(a) General characteristic. Water quality of this class shall meet or exceed the requirements for all or substantially all uses.
(b) Characteristic uses. Characteristic uses shall include, but not be limited to, the following:
(i) Water supply (domestic, industrial, agricultural).
(ii) Stock watering.
(iii) Fish and shellfish:
Salmonid migration, rearing, spawning, and harvesting.
Other fish migration, rearing, spawning, and harvesting.
Clam, oyster, and mussel rearing, spawning, and harvesting.
Crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing, spawning, and harvesting.
(iv) Wildlife habitat.
(v) Recreation (primary contact recreation, sport fishing, boating, and aesthetic enjoyment).
(vi) Commerce and navigation.
(c) Water quality criteria:
(i) Fecal coliform organisms:
(A) Freshwater – fecal coliform organism levels shall both not exceed a geometric mean value of 100 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 200 colonies/100 mL.
(B) Marine water – fecal coliform organism levels shall both not exceed a geometric mean value of 14 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 43 colonies/100 mL.
(ii) Dissolved oxygen:
(A) Freshwater – dissolved oxygen shall exceed 8.0 mg/L.
(B) Marine water – dissolved oxygen shall exceed 6.0 mg/L. When natural conditions, such as upwelling, occur, causing the dissolved oxygen to be depressed near or below 6.0 mg/L, natural dissolved oxygen levels may be degraded by up to 0.2 mg/L by human-caused activities.
(iii) Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.
(iv) Temperature shall not exceed 18.0°C (freshwater) or 16.0°C (marine water) due to human activities. Temperature increases shall not, at any time, exceed $t=28/(T+7)$ (freshwater) or $t=12/(T-2)$ (marine water).
When natural conditions exceed 18.0°C (freshwater) and 16.0°C (marine water), no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C.
For purposes hereof, "t" represents the maximum permissible temperature increase measured at a dilution zone boundary; and "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge.
Provided that temperature increase resulting from nonpoint source activities shall not exceed 2.8°C, and the maximum water temperature shall not exceed 18.3°C (freshwater).
(v) pH shall be within the range of 6.5 to 8.5 (freshwater) or 7.0 to 8.5 (marine water) with a human-caused variation within a range of less than 0.5 units.
(vi) Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
(vii) Toxic, radioactive, or deleterious material concentrations shall be below those which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department (see WAC 173-201A-040 and 173-201A-050).
(viii) Aesthetic values shall not be impaired by the presence of materials or their effects, excluding those of natural origin, which offend the senses of sight, smell, touch, or taste.
(3) Class B (good).
(a) General characteristic. Water quality of this class shall meet or exceed the requirements for most uses.
(b) Characteristic uses. Characteristic uses shall include, but not be limited to, the following:
(i) Water supply (industrial and agricultural).
(ii) Stock watering.
(iii) Fish and shellfish:
Salmonid migration, rearing, and harvesting.
Other fish migration, rearing, spawning, and harvesting.
Clam, oyster, and mussel rearing and spawning.
Crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing, spawning, and harvesting.
(iv) Wildlife habitat.
(v) Recreation (secondary contact recreation, sport fishing, boating, and aesthetic enjoyment).
(vi) Commerce and navigation.
(c) Water quality criteria:
(i) Fecal coliform organisms:
(A) Freshwater – fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 400 colonies/100 mL.
(B) Marine water – fecal coliform organism levels shall both not exceed a geometric mean value of 100 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 200 colonies/100 mL.
(ii) Dissolved oxygen:
(A) Freshwater – dissolved oxygen shall exceed 6.5 mg/L.

(B) Marine water – dissolved oxygen shall exceed 5.0 mg/L. When natural conditions, such as upwelling, occur, causing the dissolved oxygen to be depressed near or below 5.0 mg/L, natural dissolved oxygen levels may be degraded by up to 0.2 mg/L by human-caused activities.

(iii) Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.

(iv) Temperature shall not exceed 21.0°C (freshwater) or 19.0°C (marine water) due to human activities. Temperature increases shall not, at any time, exceed t=34/(T+9) (freshwater) or t=16/T (marine water).

When natural conditions exceed 21.0°C (freshwater) and 19.0°C (marine water), no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C.

For purposes hereof, "t" represents the maximum permissible temperature increase measured at a dilution zone boundary; and "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge.

Provided that temperature increase resulting from nonpoint source activities shall not exceed 2.8°C, and the maximum water temperature shall not exceed 21.3°C (freshwater).

(v) pH shall be within the range of 6.5 to 8.5 (freshwater) and 7.0 to 8.5 (marine water) with a human-caused variation within a range of less than 0.5 units.

(vi) Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(vii) Toxic, radioactive, or deleterious material concentrations shall be below those which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department (see WAC 173-201A-040 and 173-201A-050).

(viii) Aesthetic values shall not be reduced by dissolved, suspended, floating, or submerged matter not attributed to natural causes, so as to affect water use or taint the flesh of edible species.

(4) Class C (fair).

(a) General characteristic. Water quality of this class shall meet or exceed the requirements of selected and essential uses.

(b) Characteristic uses. Characteristic uses shall include, but not be limited to, the following:

(i) Water supply (industrial).

(ii) Fish (salmonid and other fish migration).

(iii) Recreation (secondary contact recreation, sport fishing, boating, and aesthetic enjoyment).

(iv) Commerce and navigation.

(c) Water quality criteria – marine water:

(i) Fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 400 colonies/100 mL.

(ii) Dissolved oxygen shall exceed 4.0 mg/L. When natural conditions, such as upwelling, occur, causing the dissolved oxygen to be depressed near or below 4.0 mg/L, natural dissolved oxygen levels may be degraded by up to 0.2 mg/L by human-caused activities.

(iii) Temperature shall not exceed 22.0°C due to human activities. Temperature increases shall not, at any time, exceed t=20/(T+2).

When natural conditions exceed 22.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C.

For purposes hereof, "t" represents the maximum permissible temperature increase measured at a dilution zone boundary; and "T" represents the background temperature as measured at a point unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge.

(iv) pH shall be within the range of 6.5 to 9.0 with a human-caused variation within a range of less than 0.5 units.

(v) Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(vi) Toxic, radioactive, or deleterious material concentrations shall be below those which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department (see WAC 173-201A-040 and 173-201A-050).

(vii) Aesthetic values shall not be interfered with by the presence of obnoxious wastes, slimes, aquatic growths, or materials which will taint the flesh of edible species.

(5) Lake class.

(a) General characteristic. Water quality of this class shall meet or exceed the requirements for all or substantially all uses.

(b) Characteristic uses. Characteristic uses shall include, but not be limited to, the following:

(i) Water supply (domestic, industrial, agricultural).

(ii) Stock watering.

(iii) Fish and shellfish:

Salmonid migration, rearing, spawning, and harvesting.

Other fish migration, rearing, spawning, and harvesting.

Clam and mussel rearing, spawning, and harvesting.

Crayfish rearing, spawning, and harvesting.

(iv) Wildlife habitat.

(v) Recreation (primary contact recreation, sport fishing, boating, and aesthetic enjoyment).

(vi) Commerce and navigation.

(c) Water quality criteria:

(i) Fecal coliform organism levels shall both not exceed a geometric mean value of 50 colonies/100 mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 100 colonies/100 mL.

(ii) Dissolved oxygen – no measurable decrease from natural conditions.

(iii) Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.

(iv) Temperature – no measurable change from natural conditions.

(v) pH – no measurable change from natural conditions.

(vi) Turbidity shall not exceed 5 NTU over background conditions.

(vii) Toxic, radioactive, or deleterious material concentrations shall be below those which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department (see WAC 173-201A-040 and 173-201A-050).

(viii) Aesthetic values shall not be impaired by the presence of materials or their effects, excluding those of natural origin, which offend the senses of sight, smell, touch, or taste.

NEW SECTION

WAC 173-201A-040 TOXIC SUBSTANCES. (1) Toxic substances shall not be introduced above natural background levels in waters of the state which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic toxicity to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department.

(2) The department shall employ or require chemical testing, acute and chronic toxicity testing, and biological assessments, as appropriate, to evaluate compliance with subsection (1) of this section and to ensure that aquatic communities and the existing and characteristic beneficial uses of waters are being fully protected.

(3) The following criteria shall be applied to all surface waters of the state of Washington for the protection of aquatic life. Criteria more stringent than these aquatic life values may be required by the department to protect human health. Values are μg/L for all substances except Ammonia and Chloride which are mg/L:

| Substance | Freshwater Acute | Freshwater Chronic | Marine Water Acute | Marine Water Chronic |
|---|---|---|---|---|
| Aldrin/Dieldrin | 2.5a | 0.0019b | 0.71a | 0.0019b |
| Ammonia (un-ionized NH3) | f,c | g,d | 0.233h,c | 0.035h,d |
| Arsenic | 360.0c | 190.0d | 69.0c | 36.0d,cc |
| Cadmium | i,c | j,d | 43.0c | 9.3d |
| Chlordane | 2.4a | 0.0043b | 0.09a | 0.004b |
| Chloride (Dissolved) k | 860.0h,c | 230.0h,d | – | – |
| Chlorine (Total Residual) | 19.0c | 11.0d | 13.0c | 7.5d |
| Chloropyrifos | 0.083c | 0.041d | 0.011c | 0.0056d |
| Chromium (Hex) | 16.0c1 | 11.0d | 1,100.0c,1 | 50.0d |
| Chromium (Tri) | m,c | n,d | – | – |
| Copper | o,c | p,d | 2.9c | – |

| Marine Water Substance | Freshwater Acute | Freshwater Chronic | Acute | Chronic |
|---|---|---|---|---|
| Cyanide | 22.0c | 5.2d | 1.0c | – |
| DDT (and metabolites) | 1.1a | 0.001b | 0.13a | 0.001b |
| Dieldrin/Aldrin e | 2.5a | 0.0019b | 0.71a | 0.0019b |
| Endosulfan | 0.22a | 0.056b | 0.034a | 0.0087b |
| Endrin | 0.18a | 0.0023b | 0.037a | 0.0023b |
| Heptachlor | 0.52a | 0.0038b | 0.053a | 0.0036b |
| Hexachlorocyclohexane (Lindane) | 2.0a | 0.08b | 0.16a | – |
| Lead | q,c | r,d | 140.0c | 5.6d |
| Mercury s | 2.4c | 0.012d | 2.1c | 0.025d |
| Nickel | t,c | u,d | 75.0c | 8.3d |
| Parathion | 0.065c | 0.013d | – | – |
| Pentachlorophenol (PCP) | w,c | v,d | 13.0c | 7.9d |
| Polychlorinated Biphenyls (PCBs) | 2.0b | 0.014b | 10.0b | 0.030b |
| Selenium | 20.0c | 5.0d | 300.0c | 71.0d,x |
| Silver | y,a | – | 2.3a | – |
| Toxaphene | 0.73c,z | 0.0002d | 0.21c,z | 0.0002d |
| Zinc | aa,c | bb,d | 95.0c | 86.0d |

Notes to Table:

a. An instantaneous concentration not to be exceeded at any time.

b. A 24–hour average not to be exceeded.

c. A 1–hour average concentration not to be exceeded more than once every three years on the average.

d. A 4–day average concentration not to be exceeded more than once every three years on the average.

e. Aldrin is metabolically converted to Dieldrin. Therefore, the sum of the Aldrin and Dieldrin concentrations are compared with the Dieldrin criteria.

f. Shall not exceed the numerical value given by: $\frac{0.52}{(FT)(FPH)(2)}$

where: $FT = 10^{[0.03(20-TCAP)]}$; $TCAP \leq T \leq 30$

$FT = 10^{[0.03(20-T)]}$ ; $0 \leq T \leq TCAP$

$FPH = 1$ ; $8 \leq pH \leq 9$

$FPH = \frac{1+10^{(7.4-pH)}}{1.25}$ ; $6.5 \leq pH \leq 8.0$

TCAP = 20°C; Salmonids or other cold water species present.

TCAP = 25°C; Salmonids and other cold water species absent.

g. Shall not exceed the numerical value given by: $\frac{0.80}{(FT)(FPH)(RATIO)}$

where: $RATIO = 16$ ; $7.7 \leq pH \leq 9$

$RATIO = 24 \times \frac{10^{(7.7-pH)}}{1+10^{(7.4-pH)}}$ ; $6.5 \leq pH \leq 7.7$

where: FT and FPH are as shown in (f) above except:

TCAP = 15°C; Salmonids or other cold water species present.

TCAP = 20°C; Salmonids and other cold water species absent.

h. Measured in milligrams per liter rather than micrograms per liter.

i. $\leq e^{(1.128[\ln(\text{hardness})]-3.828)}$

j. $\leq e^{(0.7852[\ln(\text{hardness})]-3.490)}$

k. Criterion based on dissolved chloride in association with sodium. This criterion probably will not be adequately protective when the chloride is associated with potassium, calcium, or magnesium, rather than sodium.

l. Salinity dependent effects. At low salinity the 1–hour average may not be sufficiently protective.

m. $\leq e^{(0.8190[\ln(\text{hardness})] +3.688)}$

n. $\leq e^{(0.8190[\ln(\text{hardness})] +1.561)}$

o. $\leq e^{(0.9422[\ln(\text{hardness})] -1.464)}$

p. $\leq e^{(0.8545[\ln(\text{hardness})] -1.465)}$

q. $\leq e^{(1.273[\ln(\text{hardness})] -1.460)}$

r. $\leq e^{(1.273[\ln(\text{hardness})] -4.705)}$

s. If the four–day average chronic concentration is exceeded more than once in a three–year period, the edible portion of the consumed species should be analyzed. Said edible tissue concentrations shall not be allowed to exceed 1.0 mg/kg of methylmercury.

t. $\leq e^{(0.8460[\ln(\text{hardness})] +3.3612)}$

u. $\leq e^{(0.8460[\ln(\text{hardness})] +1.1645)}$

v. $\leq e^{[1.005(pH) -5.290]}$

w. $\leq e^{[1.005(pH) -4.830]}$

x. The status of the fish community should be monitored whenever the concentration of selenium exceeds 5.0 ug/l in salt water.

y. $\leq e^{(1.72[\ln(\text{hardness})] -6.52)}$

z. Channel Catfish may be more acutely sensitive.

aa. $\leq e^{(0.8473[\ln(\text{hardness})] +0.8604)}$

bb. $\leq e^{(0.8473[\ln(\text{hardness})] +0.7614)}$

cc. Nonlethal effects (growth, C–14 uptake, and chlorophyll production) to diatoms (Thalassiosira aestivalis and Skeletonema costatum) which are common to Washington's waters have been noted at levels below the established criteria. The importance of these effects to the diatom populations and the aquatic system is sufficiently in question to persuade the state to adopt the USEPA National Criteria value (36 μg/L) as the state threshold criteria, however, wherever practical the ambient concentrations should not be allowed to exceed a chronic marine concentration of 21 μg/L.

(4) USEPA Quality Criteria for Water, 1986 shall be used in the use and interpretation of the values listed in subsection (1) of this section.

(5) Concentrations of toxic, and other substances with toxic propensities not listed in subsection (1) of this section shall be determined in consideration of USEPA Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate.

(6) Risk–based criteria for carcinogenic substances shall be selected such that the upper–bound excess cancer risk is less than or equal to one in one million.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173–201A–050 RADIOACTIVE SUBSTANCES. (1) Deleterious concentrations of radioactive materials for all classes shall be as determined by the lowest practicable concentration attainable and in no case shall exceed:

(a) 1/100 of the values listed in WAC 402–24–220 (Column 2, Table II, Appendix A, rules and regulations for radiation protection); or,

(b) USEPA Drinking Water Regulations for radionuclides, as published in the Federal Register of July 9, 1976, or subsequent revisions thereto.

(2) Nothing in this chapter shall be interpreted to be applicable to those aspects of governmental regulation of radioactive waters which have been preempted from state regulation by the Atomic Energy Act of 1954, as amended, as interpreted by the United States Supreme Court in the cases of Northern States Power Co. v. Minnesota 405 U.S. 1035 (1972) and Train v. Colorado Public Interest Research Group, 426 U.S. 1 (1976).

NEW SECTION

WAC 173–201A–060 GENERAL CONSIDERATIONS. The following general guidelines shall apply to the water quality criteria and classifications set forth in WAC 173–201A–030 through 173–201A–140 hereof:

(1) At the boundary between waters of different classifications, the water quality criteria for the higher classification shall prevail.

(2) In brackish waters of estuaries, where the fresh and marine water quality criteria differ within the same classification, the criteria shall be interpolated on the basis of salinity; except that the marine water quality criteria shall apply for dissolved oxygen when the salinity is one part per thousand or greater and for fecal coliform organisms when the salinity is ten parts per thousand or greater.

(3) In determining compliance with the fecal coliform criteria in WAC 173–201A–030, averaging of data collected beyond a thirty–day period, or beyond a specific discharge event under investigation, shall not be permitted when such averaging would skew the data set so as to mask noncompliance periods.

(4) The water quality criteria herein established for total dissolved gas shall not apply when the stream flow exceeds the seven-day, ten-year frequency flood.

(5) Waste discharge permits, whether issued pursuant to the National Pollutant Discharge Elimination System or otherwise, shall be conditioned so the discharges authorized will meet the water quality standards.

(a) However, persons discharging wastes in compliance with the terms and conditions of permits shall not be subject to civil and criminal penalties on the basis that the discharge violates water quality standards.

(b) Permits shall be subject to modification by the department whenever it appears to the department the discharge violates water quality standards. Modification of permits, as provided herein, shall be subject to review in the same manner as originally issued permits.

(6) No waste discharge permit shall be issued which results in a violation of established water quality criteria, except as provided for under WAC 173-201A-100 or 173-201A-110.

(7) Due consideration will be given to the precision and accuracy of the sampling and analytical methods used as well as existing conditions at the time, in the application of the criteria.

(8) The analytical testing methods for these criteria shall be in accordance with the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (40 C.F.R. Part 136) and other or superseding methods published and/or approved by the department following consultation with adjacent states and concurrence of the USEPA.

(9) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with Section 316 of the Federal Clean Water Act (33 U.S.C. 1251 et seq.).

NEW SECTION

WAC 173-201A-070 ANTIDEGRADATION. The antidegradation policy of the state of Washington, as generally guided by chapter 90.48 RCW, Water Pollution Control Act, and chapter 90.54 RCW, Water Resources Act of 1971, is stated as follows:

(1) Existing beneficial uses shall be maintained and protected and no further degradation which would interfere with or become injurious to existing beneficial uses shall be allowed.

(2) Whenever the natural conditions of said waters are of a lower quality than the criteria assigned, the natural conditions shall constitute the water quality criteria.

(3) Water quality shall be maintained and protected in waters designated as outstanding resource waters in WAC 173-201A-080.

(4) Whenever waters are of a higher quality than the criteria assigned for said waters, the existing water quality shall be protected and waste and other materials and substances which will reduce the existing quality shall not be allowed to enter such waters, except in those instances where:

(a) It is clear, after satisfactory public participation and intergovernmental coordination, that overriding considerations of the public interest will be served;

(b) All wastes and other materials and substances discharged into said waters shall be provided with all known, available, and reasonable methods of prevention, control, and treatment by new and existing point sources before discharge. All wastes and other materials and substances discharged into said waters from nonpoint sources shall be provided with all known, available, and reasonable best management practices; and

(c) When the lowering of water quality in high quality waters is authorized, the lower water quality shall still be of high enough quality to fully support all existing beneficial uses.

(5) Short-term modification of water quality may be permitted as conditioned by WAC 173-201A-110.

NEW SECTION

WAC 173-201A-080 OUTSTANDING RESOURCE WATERS. Waters meeting one or more of the following criteria shall be considered for outstanding resource water designation. Designations shall be adopted in accordance with the provisions of chapter 34.05 RCW, Administrative Procedure Act.

(1) Waters in national parks, national monuments, national preserves, national wildlife refuges, national wilderness areas, federal wild and scenic rivers, national seashores, national marine sanctuaries, national recreation areas, national scenic areas, and national estuarine research reserves;

(2) Waters in state parks, state natural areas, state wildlife management areas, and state scenic rivers;

(3) Waters that are determined by the department of natural resources to meet the criteria of the Washington natural heritage program as specified in chapter 79.70 RCW;

(4) Documented locations of aquatic habitat of priority species as determined by the department of wildlife;

(5) Documented critical habitat for populations of threatened or endangered species of native anadromous fish;

(6) Waters of exceptional recreational or ecological significance.

NEW SECTION

WAC 173-201A-100 MIXING ZONES. (1) The allowable size and location of a mixing zone and the associated effluent limits shall be established in discharge permits, general permits, or orders, as appropriate.

(2) A discharger shall be required to fully apply AKART prior to being authorized a mixing zone.

(3) Mixing zone determinations shall consider critical discharge conditions.

(4) No mixing zone shall be granted unless the supporting information clearly indicates the mixing zone would not have a reasonable potential to result in a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department.

(5) Water quality criteria shall not be violated outside of the boundary of a mixing zone as a result of the discharge for which the mixing zone was authorized.

(6) The size of a mixing zone and the concentrations of pollutants present shall be minimized.

(7) The maximum size of a mixing zone shall comply with the following:

(a) In rivers and streams, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following (this size limitation may be applied to estuaries having flow characteristics that resemble rivers):

(i) Not extend in a downstream direction for a distance from the discharge port(s) greater than three hundred feet plus the depth of water over the discharge port(s), or extend upstream for a distance of over one hundred feet;

(ii) Not utilize greater than twenty-five percent of the flow; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In estuaries, mixing zones, singularly or in combination with other mixing zones, shall:

(i) Not extend in any horizontal direction from the discharge port(s) for a distance greater than two hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water; and

(ii) Not occupy greater than twenty-five percent of the width of the water body as measured during mean lower low water. For the purpose of this section, areas to the east of a line from Green Point (Fidalgo Island) to Lawrence Point (Orcas Island) are considered estuarine, as are all of the Strait of Georgia and the San Juan Islands north of Orcas Island. To the east of Deception Pass, and to the south and east of Admiralty Head, and south of Point Wilson on the Quimper Peninsula, is Puget Sound proper, which is considered to be entirely estuarine. All waters existing within bays from Point Wilson westward to Cape Flattery and south to the North Jetty of the Columbia River shall also be categorized as estuarine.

(c) In oceanic waters, mixing zones, singularly or in combination with other mixing zones, shall not extend in any horizontal direction from the discharge port(s) for a distance greater than three hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water. For the purpose of this section, all marine waters not classified as estuarine in (b)(ii) of this subsection shall be categorized as oceanic.

(d) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones shall not be allowed unless it can be demonstrated to the satisfaction of the department that:

(i) Other siting, technological, and managerial options that would avoid the need for a lake mixing zone are not reasonably achievable;

(ii) Overriding considerations of the public interest will be served; and

(iii) All technological and managerial methods available for pollution reduction and removal that are economically achievable would be

implemented prior to discharge. Such methods may include, but not be limited to, advanced waste treatment techniques.

(e) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following:

(i) Not exceed ten percent of the water body volume;

(ii) Not exceed ten percent of the water body surface area (maximum radial extent of the plume regardless of whether it reaches the surface); and

(iii) Not extend beyond fifteen percent of the width of the water body.

(8) Acute criteria are based on numeric criteria and toxicity tests approved by the department, as generally guided under WAC 173-201A-040 (1) through (5), and shall be met as near to the point of discharge as practicably attainable. Compliance shall be determined by monitoring data or calibrated models approved by the department utilizing representative dilution ratios. A zone where acute criteria may be exceeded is allowed only if it can be demonstrated to the department's satisfaction the concentration of, and duration and frequency of exposure to the discharge, will not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem. A zone of acute criteria exceedance shall singularly or in combination with other such zones comply with the following maximum size requirements:

(a) In rivers and streams, a zone where acute criteria may be exceeded shall comply with the most restrictive combination of the following (this size limitation may also be applied to estuaries having flow characteristics resembling rivers):

(i) Not extend beyond ten percent of the distance to the upstream and downstream boundaries of an authorized mixing zone, as measured independently from the discharge port(s);

(ii) Not utilize greater than two and one-half percent of the flow established in subsection (7)(a)(ii) of this section; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In oceanic and estuarine waters a zone where acute criteria may be exceeded shall not extend beyond ten percent of the distance established in subsection (7)(b)(i) of this section as measured independently from the discharge port(s).

(9) Overlap of mixing zones.

(a) Where allowing the overlap of mixing zones would result in a combined area of water quality criteria nonattainment which does not exceed the numeric size limits established under subsection (7) of this section, the overlap may be permitted if:

(i) The separate and combined effects of the discharges can be reasonably determined; and

(ii) The combined effects would not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(b) Where allowing the overlap of mixing zones would result in exceedance of the numeric size limits established under subsection (7) of this section, the overlap may be allowed only where:

(i) The overlap qualifies for exemption under subsections (12) and (13) of this section; and

(ii) The overlap meets the requirements established in (a) of this subsection.

(10) Storm water:

(a) Storm water discharge from any "point source" containing "process wastewater" as defined in 40 C.F.R. Part 122.2 shall fully conform to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section.

(b) Storm water discharges not described by (a) of this subsection may be granted an exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharger clearly demonstrates to the department's satisfaction that:

(i) All appropriate best management practices established for storm water pollutant control have been applied to the discharge.

(ii) The proposed mixing zone shall not have a reasonable potential to result in a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department; and

(iii) The proposed mixing zone shall not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(c) All mixing zones for storm water discharges shall be based on a volume of runoff corresponding to a design storm approved by the department. Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section due to precipitation events greater than the approved design storm may be allowed by the department, if it would not result in adverse impact to existing or characteristic uses of the water body or result in damage to the ecosystem, or adversely affect public health as determined by the department.

(11) Combined sewer overflows complying with the requirements of chapter 173-245 WAC, may be allowed an average once per year exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharge complies with subsection (4) of this section.

(12) Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section may be considered by the department in the following cases:

(a) For discharges existing prior to October 7, 1992, (or for proposed discharges with engineering plans formally approved by the department prior to October 7, 1992);

(b) Where altering the size configuration is expected to result in greater protection to existing and characteristic uses;

(c) Where the volume of water in the effluent is providing a greater benefit to the existing or characteristic uses of the water body due to flow augmentation than the benefit of removing the discharge, if such removal is the remaining feasible option; and

(d) Where the exceedance is clearly necessary to accommodate important economic or social development in the area in which the waters are located.

(13) Before an exceedance from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section may be allowed under subsection (12) of this section, it must clearly be demonstrated to the department's satisfaction that:

(a) AKART appropriate to the discharge is being fully applied;

(b) All siting, technological, and managerial options which would result in full or significantly closer compliance that are economically achievable are being utilized; and

(c) The proposed mixing zone complies with subsection (4) of this section.

(14) Any exemptions granted to the size criteria under subsection (12) of this section shall be reexamined during each permit renewal period for changes in compliance capability. Any significant increase in capability to comply shall be reflected in the renewed discharge permit.

(15) The department may establish permit limits and measures of compliance for human health based criteria (based on lifetime exposure levels), independent of this section.

(16) Sediment impact zones authorized by the department pursuant to chapter 173-204 WAC, Sediment management standards, do not satisfy the requirements of this section.

NEW SECTION

WAC 173-201A-110 SHORT-TERM MODIFICATIONS. (1) The criteria and special conditions established in WAC 173-201A-030 through 173-201A-140 may be modified for a specific water body on a short-term basis when necessary to accommodate essential activities, respond to emergencies, or to otherwise protect the public interest, even though such activities may result in a temporary reduction of water quality conditions below those criteria and classifications established by this regulation. Such modification shall be issued in writing by the director or his/her designee subject to such terms and conditions as he/she may prescribe, and such modification shall not exceed a twelve-month period.

(2) In no case will any degradation of water quality be allowed if this degradation significantly interferes with or becomes injurious to existing water uses or causes long-term harm to the environment.

(3) Notwithstanding the above, the aquatic application of herbicides which result in water use restrictions shall be considered an activity for which a short-term modification generally may be issued subject to the following conditions:

(a) A request for a short-term modification shall be made to the department on forms supplied by the department. Such request generally shall be made at least thirty days prior to herbicide application;

(b) Such herbicide application shall be in accordance with state of Washington department of agriculture regulations;

(c) Such herbicide application shall be in accordance with label provisions promulgated by USEPA under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136, et seq.);

(d) Notice, including identification of the herbicide, applicator, location where the herbicide will be applied, proposed timing and method of application, and water use restrictions shall be given according to the following requirements:

(i) Appropriate public notice as determined and prescribed by the director or his/her designee shall be given of any water use restrictions specified in USEPA label provisions;

(ii) The appropriate regional offices of the departments of fisheries and wildlife shall be notified twenty-four hours prior to herbicide application; and

(iii) In the event of any fish kills, the departments of ecology, fisheries, and wildlife shall be notified immediately;

(e) The herbicide application shall be made at times so as to:

(i) Minimize public water use restrictions during weekends; and

(ii) Completely avoid public water use restrictions during the opening week of fishing season, Memorial Day weekend, Independence Day weekend, and Labor Day weekend;

(f) Any additional conditions as may be prescribed by the director or his/her designee.

NEW SECTION

WAC 173-201A-120 GENERAL CLASSIFICATIONS. General classifications applying to various surface water bodies not specifically classified under WAC 173-201A-130 or 173-201A-140 are as follows:

(1) All surface waters lying within national parks, national forests, and/or wilderness areas are classified Class AA or Lake Class.

(2) All lakes and their feeder streams within the state are classified Lake Class and Class AA respectively, except for those feeder streams specifically classified otherwise.

(3) All reservoirs with a mean detention time of greater than 15 days are classified Lake Class.

(4) All reservoirs with a mean detention time of 15 days or less are classified the same as the river section in which they are located.

(5) All reservoirs established on preexisting lakes are classified as Lake Class.

(6) All unclassified surface waters that are tributaries to Class AA waters are classified Class AA. All other unclassified surface waters within the state are hereby classified Class A.

NEW SECTION

WAC 173-201A-130 SPECIFIC CLASSIFICATIONS—FRESHWATER. Specific fresh surface waters of the state of Washington are classified as follows:

(1) American River. Class AA

(2) Big Quilcene River and tributaries. Class AA

(3) Bumping River. Class AA

(4) Burnt Bridge Creek. Class A

(5) Cedar River from Lake Washington to the Maplewood Bridge (river mile 4.1). Class A

(6) Cedar River and tributaries from the Maplewood Bridge (river mile 4.1) to Landsburg Dam (river mile 21.6). Class AA

(7) Cedar River and tributaries from Landsburg Dam (river mile 21.6) to headwaters. Special condition - no waste discharge will be permitted. Class AA

(8) Chehalis River from upper boundary of Grays Harbor at Cosmopolis (river mile 3.1, longitude 123°45'45" W) to Scammon Creek (river mile 65.8). Class A

(9) Chehalis River from Scammon Creek (river mile 65.8) to Newaukum River (river mile 75.2). Special condition - dissolved oxygen shall exceed 5.0 mg/L from June 1 to September 15. For the remainder of the year, the dissolved oxygen shall meet Class A criteria. Class A

(10) Chehalis River from Newaukum River (river mile 75.2) to Rock Creek (river mile 106.7). Class A

(11) Chehalis River, from Rock Creek (river mile 106.7) to headwaters. Class AA

(12) Chehalis River, south fork. Class A

(13) Chewuch River. Class AA

(14) Chiwawa River. Class AA

(15) Cispus River. Class AA

(16) Clearwater River. Class A

(17) Cle Elum River. Class AA

(18) Cloquallum Creek. Class A

(19) Clover Creek from outlet of Lake Spanaway to inlet of Lake Steilacoom. Class A

(20) Columbia River from mouth to the Washington-Oregon border (river mile 309.3). Special conditions - temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined. Dissolved oxygen shall exceed 90 percent of saturation. Class A

(21) Columbia River from Washington-Oregon border (river mile 309.3) to Grand Coulee Dam (river mile 596.6). Special condition from Washington-Oregon border (river mile 309.3) to Priest Rapids Dam (river mile 397.1). Temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T+9)$. Class A

(22) Columbia River from Grand Coulee Dam (river mile 596.6) to Canadian border (river mile 745.0). Class AA

(23) Colville River. Class A

(24) Coweeman River from mouth to Mulholland Creek (river mile 18.4). Class A

(25) Coweeman River from Mulholland Creek (river mile 18.4) to headwaters. Class AA

(26) Cowlitz River from mouth to base of Riffe Lake Dam (river mile 52.0). Class A

(27) Cowlitz River from base of Riffe Lake Dam (river mile 52.0) to headwaters. Class AA

(28) Crab Creek and tributaries. Class B

(29) Decker Creek. Class AA

(30) Deschutes River from mouth to boundary of Snoqualmie National Forest (river mile 48.2). Class A

(31) Deschutes River from boundary of Snoqualmie National Forest (river mile 48.2) to headwaters. Class AA

(32) Dickey River. Class A

(33) Dosewallips River and tributaries. Class AA

(34) Duckabush River and tributaries. Class AA

(35) Dungeness River from mouth to Canyon Creek (river mile 10.8). Class A

(36) Dungeness River and tributaries from Canyon Creek (river mile 10.8) to headwaters. Class AA

(37) Duwamish River from mouth south of a line bearing 254°true from the NW corner of berth 3, terminal No. 37 to the Black River (river mile 11.0) (Duwamish River continues as the Green River above the Black River). Class B

(38) Elochoman River. Class A

(39) Elwha River and tributaries. Class AA

(40) Entiat River from Wenatchee National Forest boundary (river mile 20.5) to headwaters. Class AA

(41) Grande Ronde River from mouth to Oregon border (river mile 37). Special condition - temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T+9)$. Class A

(42) Grays River from Grays River Falls (river mile 15.8) to headwaters. Class AA

(43) Green River (Cowlitz County). Class AA

(44) Green River (King County) from Black River (river mile 11.0 and point where Duwamish River continues as the Green River) to west boundary of Sec. 27-T21N-R6E (west boundary of Flaming Geyser State Park at river mile 42.3). Class A

(45) Green River (King County) from west boundary of Sec. 27-T21N-R6E (west boundary of Flaming Geyser State Park, river mile 42.3) to west boundary of Sec. 13-T21N-R7E (river mile 59.1). Class AA

(46) Green River and tributaries (King County) from west boundary of Sec. 13-T21N-R7E (river mile 59.1) to headwaters. Special condition - no waste discharge will be permitted. Class AA

(47) Hamma Hamma River and tributaries. Class AA

(48) Hanaford Creek from mouth to east boundary of Sec. 25-T15N-R2W (river mile 4.1). Special condition - dissolved oxygen shall exceed 6.5 mg/L. Class A

(49) Hanaford Creek from east boundary of Sec. 25-T15N-R2W (river mile 4.1) to headwaters. Class A

(50) Hoh River and tributaries. Class AA

(51) Hoquiam River (continues as west fork above east fork) from mouth to river mile 9.3 (Dekay Road bridge) (upper limit of tidal influence). Class B

(52) Humptulips River and tributaries from mouth to Olympic National Forest boundary on east fork (river mile 12.8) and west fork (river mile 40.4) (main stem continues as west fork). Class A

(53) Humptulips River, east fork from Olympic National Forest boundary (river mile 12.8) to headwaters. Class AA

(54) Humptulips River, west fork from Olympic National Forest boundary (river mile 40.4) to headwaters. Class AA

(55) Issaquah Creek. Class A

(56) Kalama River from lower Kalama River Falls (river mile 10.4) to headwaters. Class AA

(57) Klickitat River from Little Klickitat River (river mile 19.8) to headwaters. Class AA

(58) Lake Washington Ship Canal from Government Locks (river mile 1.0) to Lake Washington (river mile 8.6). Special condition - salinity shall not exceed one part per thousand (1.0 ppt) at any point or depth along a line that transects the ship canal at the University Bridge (river mile 6.1). Lake Class

(59) Lewis River, east fork, from Multon Falls (river mile 24.6) to headwaters. Class AA

(60) Little Wenatchee River. Class AA

(61) Methow River from mouth to Chewuch River (river mile 50.1). Class A

(62) Methow River from Chewuch River (river mile 50.1) to headwaters. Class AA

(63) Mill Creek from mouth to 13th street bridge in Walla Walla (river mile 6.4). Special condition - dissolved oxygen concentration shall exceed 5.0 mg/L. Class B

(64) Mill Creek from 13th Street bridge in Walla Walla (river mile 6.4) to Walla Walla Waterworks Dam (river mile 25.2). Class A

(65) Mill Creek and tributaries from city of Walla Walla Waterworks Dam (river mile 25.2) to headwaters. Special condition - no waste discharge will be permitted. Class AA

(66) Naches River from Snoqualmie National Forest boundary (river mile 35.7) to headwaters. Class AA

(67) Naselle River from Naselle "Falls" (cascade at river mile 18.6) to headwaters. Class AA

(68) Newaukum River. Class A

(69) Nisqually River from mouth to Alder Dam (river mile 44.2). Class A

(70) Nisqually River from Alder Dam (river mile 44.2) to headwaters. Class AA

(71) Nooksack River from mouth to Maple Creek (river mile 49.7). Class A

(72) Nooksack River from Maple Creek (river mile 49.7) to headwaters. Class AA

(73) Nooksack River, south fork, from mouth to Skookum Creek (river mile 14.3). Class A

(74) Nooksack River, south fork, from Skookum Creek (river mile 14.3) to headwaters. Class AA

(75) Nooksack River, middle fork. Class AA

(76) Okanogan River. Class A

(77) Palouse River from mouth to south fork (Colfax, river mile 89.6). Class B

(78) Palouse River from south fork (Colfax, river mile 89.6) to Idaho border (river mile 123.4). Special condition - temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9). Class A

(79) Pend Oreille River from Canadian border (river mile 16.0) to Idaho border (river mile 87.7). Special condition - temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9). Class A

(80) Pilchuck River from city of Snohomish Waterworks Dam (river mile 26.8) to headwaters. Class AA

(81) Puyallup River from mouth to river mile 1.0. Class B

(82) Puyallup River from river mile 1.0 to Kings Creek (river mile 31.6). Class A

(83) Puyallup River from Kings Creek (river mile 31.6) to headwaters. Class AA

(84) Queets River and tributaries. Class AA

(85) Quillayute River. Class AA

(86) Quinault River and tributaries. Class AA

(87) Salmon Creek (Clark County). Class A

(88) Satsop River from mouth to west fork (river mile 6.4). Class A

(89) Satsop River, east fork. Class AA

(90) Satsop River, middle fork. Class AA

(91) Satsop River, west fork. Class AA

(92) Skagit River from mouth to Skiyou Slough-lower end (river mile 25.6). Class A

(93) Skagit River and tributaries (includes Baker, Suak, Suiattle, and Cascade rivers) from Skiyou Slough-lower end, (river mile 25.6) to Canadian border (river mile 127.0). Special condition.

Skagit River (Gorge by-pass reach) from Gorge Dam (river mile 96.6) to Gorge Powerhouse (river mile 94.2). Temperature shall not exceed 21°C due to human activities. When natural conditions exceed 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed t=34/(T+9). Class AA

(94) Skokomish River and tributaries. Class AA

(95) Skookumchuck River from Bloody Run Creek (river mile 21.4) to headwaters. Class AA

(96) Skykomish River from mouth to May Creek (above Gold Bar at river mile 41.2). Class A

(97) Skykomish River from May Creek (above Gold Bar at river mile 41.2) to headwaters. Class AA

(98) Snake River from mouth to Washington-Idaho-Oregon border (river mile 176.1). Special condition.

(a) Below Clearwater River (river mile 139.3). Temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9).

(b) Above Clearwater River (river mile 139.3). Temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increases will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined. Class A

(99) Snohomish River from mouth and east of longitude 122°13'40"W upstream to latitude 47°56'30"N (southern tip of Ebey Island at river mile 8.1). Special condition - fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL and not have more than 10 percent of the samples obtained for calculating the mean value exceeding 400 colonies/100 mL. Class A

(100) Snohomish River upstream from latitude 47°56'30"N (southern tip of Ebey Island river mile 8.1) to confluence with Skykomish and Snoqualmie River (river mile 20.5). Class A

(101) Snoqualmie River and tributaries from mouth to west boundary of Twin Falls State Park on south fork (river mile 9.1). Class A

(102) Snoqualmie River, middle fork. Class AA

(103) Snoqualmie River, north fork. Class AA
(104) Snoqualmie River, south fork, from west boundary of Twin Falls State Park (river mile 9.1) to headwaters. Class AA
(105) Soleduck River and tributaries. Class AA
(106) Spokane River from mouth to Long Lake Dam (river mile 33.9). Special condition – temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9). Class A
(107) Spokane River from Long Lake Dam (river mile 33.9) to Nine Mile Bridge (river mile 58.0). Special conditions:
(a) The average euphotic zone concentration of total phosphorus (as P) shall not exceed 25μg/L during the period of June 1 to October 31.
(b) Temperature shall not exceed 20.0°C, due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed t=34/(T+9). Lake Class
(108) Spokane River from Nine Mile Bridge (river mile 58.0) to the Idaho border (river mile 96.5). Temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed t=34/(T+9). Class A
(109) Stehekin River. Class AA
(110) Stillaguamish River from mouth to north and south forks (river mile 17.8). Class A
(111) Stillaguamish River, north fork, from mouth to Squire Creek (river mile 31.2). Class A
(112) Stillaguamish River, north fork, from Squire Creek (river mile 31.2) to headwaters. Class AA
(113) Stillaguamish River, south fork, from mouth to Canyon Creek (river mile 33.7). Class A
(114) Stillaguamish River, south fork, from Canyon Creek (river mile 33.7) to the headwaters. Class AA
(115) Sulphur Creek. Class B
(116) Sultan River from mouth to Chaplain Creek (river mile 5.9). Class A
(117) Sultan River and tributaries from Chaplain Creek (river mile 5.9) to headwaters. Special condition – no waste discharge will be permitted above city of Everett Diversion Dam (river mile 9.4). Class AA
(118) Sumas River from Canadian border (river mile 12) to headwaters (river mile 23). Class A
(119) Tieton River. Class AA
(120) Tolt River, south fork and tributaries from mouth to west boundary of Sec. 31–T26N–R9E (river mile 6.9). Class AA
(121) Tolt River, south fork from west boundary of Sec. 31–T26N–R9E (river mile 6.9) to headwaters. Special condition – no waste discharge will be permitted. Class AA
(122) Touchet River, north fork from Dayton water intake structure (river mile 3.0) to headwaters. Class AA
(123) Toutle River, north fork, from Green River to headwaters. Class AA
(124) Toutle River, south fork. Class AA
(125) Tucannon River from Umatilla National Forest boundary (river mile 38.1) to headwaters. Class AA
(126) Twisp River. Class AA
(127) Union River and tributaries from Bremerton Waterworks Dam (river mile 6.9) to headwaters. Special condition – no waste discharge will be permitted. Class AA
(128) Walla Walla River from mouth to Lowden (Dry Creek at river mile 27.2). Class B
(129) Walla Walla River from Lowden (Dry Creek at river mile 27.2) to Oregon border (river mile 40). Special condition – temperature shall not exceed 20.0°C due to human activities. When natural conditions exceed 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9). Class A
(130) Wenatchee River from Wenatchee National Forest boundary (river mile 27.1) to headwaters. Class AA
(131) White River (Pierce–King counties) from Mud Mountain Dam (river mile 27.1) to headwaters. Class AA
(132) White River (Chelan County). Class AA
(133) Wildcat Creek. Class A
(134) Willapa River upstream of a line bearing 70°true through Mailboat Slough light (river mile 1.8). Class A
(135) Wishkah River from mouth to river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21–T18N–R9W). Class B
(136) Wishkah River from river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21–T18N–R9W) to west fork (river mile 17.7). Class A
(137) Wishkah River from west fork of Wishkah River (river mile 17.7) to south boundary of Sec. 33–T21N–R8W (river mile 32.0). Class AA
(138) Wishkah River and tributaries from south boundary of Sec. 33–T21N–R8W (river mile 32.0) to headwaters. Special condition – no waste discharge will be permitted. Class AA
(139) Wynoochee River from mouth to Olympic National Forest boundary (river mile 45.9). Class A
(140) Wynoochee River from Olympic National Forest boundary (river mile 45.9) to headwaters. Class AA
(141) Yakima River from mouth to Cle Elum River (river mile 185.6). Special condition – temperature shall not exceed 21.0°C due to human activities. When natural conditions exceed 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T+9). Class A
(142) Yakima River from Cle Elum River (river mile 185.6) to headwaters. Class AA

NEW SECTION

WAC 173–201A–140 SPECIFIC CLASSIFICATIONS—MARINE WATER. Specific marine surface waters of the state of Washington are classified as follows:

(1) Budd Inlet south of latitude 47°04'N (south of Priest Point Park). Class B
(2) Coastal waters: Pacific Ocean from Ilwaco to Cape Flattery. Class AA
(3) Commencement Bay south and east of a line bearing 258° true from "Brown's point" and north and west of line bearing 225° true through the Hylebos waterway light. Class A
(4) Commencement Bay, inner, south and east of a line bearing 225° true through Hylebos Waterway light except the city waterway south and east of south 11th Street. Class B
(5) Commencement Bay, city waterway south and east of south 11th Street. Class C
(6) Drayton Harbor, south of entrance. Class A
(7) Dyes and Sinclair Inlets west of longitude 122°37'W. Class A
(8) Elliott Bay east of a line between Pier 91 and Duwamish head. Class A
(9) Everett Harbor, inner, east of longitude 122° 13' 40" W and southwest of a line bearing 121° true from light "4" (Snohomish River mouth). Class B
(10) Grays Harbor west of longitude 123°59'W. Class A
(11) Grays Harbor east of longitude 123°59'W to longitude 123°45'45"W (Cosmopolis Chehalis River, river mile 3.1). Special condition – dissolved oxygen shall exceed 5.0 mg/L. Class B
(12) Guemes Channel, Padilla, Samish and Bellingham Bays east of longitude 122°39'W and north of latitude 48°27'20"N. Class A
(13) Hood Canal. Class AA
(14) Mukilteo and all North Puget Sound west of longitude 122°39' W (Whidbey, Fidalgo, Guemes and Lummi islands and state highway 20 bridge at Deception Pass), except as otherwise noted. Class AA
(15) Oakland Bay west of longitude 123°05'W (inner Shelton harbor). Class B
(16) Port Angeles south and west of a line bearing 152° true from buoy "2" at the tip of Ediz Hook. Class A
(17) Port Gamble south of latitude 47°15'20"N. Class A

(18) Port Townsend west of a line between Point Hudson and Kala point. Class A
(19) Possession Sound, south of latitude 47°57'N. Class AA
(20) Possession Sound, Port Susan, Saratoga Passage, and Skagit Bay east of Whidbey Island and state highway 20 bridge at Deception Pass between latitude 47°57'N (Mukilteo) and latitude 48°27'20"N (Similk Bay), except as otherwise noted. Class A
(21) Puget Sound through Admiralty Inlet and South Puget Sound, south and west to longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island). Class AA
(22) Sequim Bay southward of entrance. Class AA
(23) South Puget Sound west of longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island, except as otherwise noted). Class A
(24) Strait of Juan de Fuca. Class AA
(25) Totten Inlet and Little Skookum Inlet, west of longitude 122°5'32" (west side of Steamboat Island). Class AA
(26) Willapa Bay seaward of a line bearing 70° true through Mailboat Slough light (Willapa River, river mile 1.8). Class A

NEW SECTION

WAC 173-201A-150 ACHIEVEMENT CONSIDERATIONS. To fully achieve and maintain the foregoing water quality in the state of Washington, it is the intent of the department to apply the various implementation and enforcement authorities at its disposal, including participation in the programs of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) as appropriate. It is also the intent that cognizance will be taken of the need for participation in cooperative programs with other state agencies and private groups with respect to the management of related problems. The department's planned program for water pollution control will be defined and revised annually in accordance with section 106 of said federal act. Further, it shall be required that all activities which discharge wastes into waters within the state, or otherwise adversely affect the quality of said waters, be in compliance with the waste treatment and discharge provisions of state or federal law.

NEW SECTION

WAC 173-201A-160 IMPLEMENTATION. (1) Discharges from municipal, commercial, and industrial operations. The primary means to be used for controlling municipal, commercial, and industrial waste discharges shall be through the issuance of waste disposal permits, as provided for in RCW 90.48.160, 90.48.162 and 90.48.260.

(2) Miscellaneous waste discharge or water quality effect sources. The director shall, through the issuance of regulatory permits, directives, and orders, as are appropriate, control miscellaneous waste discharges and water quality effect sources not covered by WAC 173-201A-160(1) hereof.

(3) Nonpoint source and storm water pollution.

(a) Activities which generate nonpoint source pollution shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate nonpoint source pollution.

(b) Best management practices shall be applied so that when all appropriate combinations of individual best management practices are utilized, violation of water quality criteria shall be prevented. If a discharger is applying all best management practices appropriate or required by the department and a violation of water quality criteria occurs, the discharger shall modify existing practices or apply further water pollution control measures, selected or approved by the department, to achieve compliance with water quality criteria. Best management practices established in permits, orders, rules, or directives of the department shall be reviewed and modified, as appropriate, so as to achieve compliance with water quality criteria.

(c) Activities which contribute to nonpoint source pollution shall be conducted utilizing best management practices to prevent violation of water quality criteria. When applicable best management practices are not being implemented, the department may conclude individual activities are causing pollution in violation of RCW 90.48.080. In these situations, the department may pursue orders, directives, permits, or civil or criminal sanctions to gain compliance with the standards.

(d) Activities which discharge pollutants in storm water shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate storm water pollution. The consideration and control procedures in (b) and (c) of this subsection apply to the control of pollutants in storm water.

NEW SECTION

WAC 173-201A-170 SURVEILLANCE. A continuing surveillance program, to ascertain whether the regulations, waste disposal permits, orders, and directives promulgated and/or issued by the department are being complied with, will be conducted by the department staff as follows:

(1) Inspecting treatment and control facilities.
(2) Monitoring and reporting waste discharge characteristics.
(3) Monitoring receiving water quality.

NEW SECTION

WAC 173-201A-180 ENFORCEMENT. To insure that the provisions of chapter 90.48 RCW, the standards for water quality promulgated herein, the terms of waste disposal permits, and other orders and directives of the department are fully complied with, the following enforcement tools will be relied upon by the department, in cooperation with the attorney general as it deems appropriate:

(1) Issuance of notices of violation and regulatory orders as provided for in RCW 90.48.120.

(2) Initiation of actions requesting injunctive or other appropriate relief in the various courts of the state, as provided for in RCW 90.48.037.

(3) Levying of civil penalties as provided for in RCW 90.48.144.

(4) Initiation of a criminal proceeding by the appropriate county prosecutor, as provided for in RCW 90.48.140.

(5) Issuance of regulatory orders or directives as provided for in RCW 90.48.240.

## WSR 92-11-042
### PROPOSED RULES
### DEPARTMENT OF ECOLOGY
[Order 92-31—Filed May 19, 1992, 9:06 p.m.]

Original Notice.

Title of Rule: WAC 173-19-360 San Juan County shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for San Juan County.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nora Jewett, Department of Ecology, P.O. Box 46700, Olympia, WA 98504-6700, (206) 459-6789.

Name of Proponent: Department of Ecology, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment establishes new sections in the master program that provide policies, regulations and three new environment designations covering the East Sound subarea. The amendment was developed in conjunction with a new subarea plan for East Sound. The amendment ensures consolidated marina activity in the north and focuses on mixed commercial and public access in the south.

Proposal Changes the Following Existing Rules: Amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Orcas Center, Mt. Baker and North Beach Road, East Sound, Orcas Island, on June 24, 1992, at 2:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 46700, Olympia, WA 98504, by July 1, 1992.

Date of Intended Adoption: August 18, 1992.

May 18, 1992
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order 91-18, filed 6/5/91)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved April 19, 1989. Revision approved March 14, 1990. Revision approved May 15, 1990. Revision approved June 19, 1990. Revision approved February 5, 1991. Revision approved June 4, 1991. Revision approved August 18, 1992.

## WSR 92-11-043
### PROPOSED RULES
### DEPARTMENT OF ECOLOGY
[Order 91-58—Filed May 19, 1992, 9:16 a.m.]

Supplemental Notice to WSR 92-06-088.

Title of Rule: Chapter 173-492 WAC, Motor fuel specifications for oxygenated gasoline.

Purpose: The purpose of this new chapter is to reduce carbon monoxide emissions from gasoline powered motor vehicles, through the wintertime use of oxygenated gasolines, in areas that are either known or expected to exceed health-based air quality standards.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.011.

Summary: This rule is a new chapter in the Washington Administrative Code and is, in part, mandated by the federal Clean Air Act, which requires metropolitan areas which are out of attainment for carbon monoxide to implement an oxygenated fuel program.

Reasons Supporting Proposal: To bring nonattainment areas into attainment for carbon monoxide, and to prevent further degradation of air quality.

Name of Agency Personnel Responsible for Drafting: Carol Piening and Dan Johnson, P.O. Box 47600, (206) 438-8110; Implementation and Enforcement: Joseph Williams, P.O. Box 47600, (206) 459-6255.

Name of Proponent: Department of Ecology, governmental.

Rule is necessary because of federal law, 42 U.S.C. 7545 Sec. 211 (m).

Explanation of Rule, its Purpose, and Anticipated Effects: The federal Clean Air Act mandates the use of oxygenated fuels in areas that are out of attainment for carbon monoxide. The purpose of the proposed rule is to reduce carbon monoxide emissions from motor vehicles through the wintertime use of oxygenated gasolines in areas that are either known or expected to exceed health-based air quality standards. The proposed chapter establishes control areas and control periods for the use of oxygenated gasoline. It defines compliance requirements, including a minimum and an average oxygen content, and appropriate labeling. It also defines monitoring and enforcement requirements. It sets registration fees for the 1992-1993 control season. It gives ecology or the local air authority enforcement discretion in case of unforeseen circumstances. Local air authorities, where they have jurisdiction, are responsible for compliance monitoring and enforcement.

Proposal does not change existing rules.

#### SMALL BUSINESS ECONOMIC IMPACT STATEMENT

The purpose of the proposed motor fuel specifications for oxygenated gasoline rule, chapter 173-492 WAC, is to reduce carbon monoxide (CO) emissions from gasoline powered motor vehicles through the wintertime use of oxygenated gasolines in areas that are either known or expected to exceed health-based air quality standards. The federal Clean Air Act amendments of 1990 require states with areas not meeting national air quality standards for carbon monoxide emissions to implement oxygenated gasoline programs. The Environmental Protection Agency is empowered to enforce the Clean Air Act amendments.

The areas within Washington exceeding national ambient air quality standards for CO are the Seattle/Tacoma, Vancouver, and Spokane metropolitan areas. In accordance with instruction from the EPA, the counties within which these areas are located must serve as the control areas where oxygenated gasoline will be distributed. Oxygenated gasoline must be used in Clark, King, Pierce and Snohomish counties from November 1 through February 29, and in Spokane County from September 1 through February 29 beginning in the fall of 1992. The Department of Ecology has determined that extending the control areas in November 1994, to include all counties in western Washington will help to maintain healthful air quality and ease difficulties gasoline distributors may encounter in handling both oxygenated and nonoxygenated gasolines.

The Regulatory Fairness Act, chapter 19.85 RCW, was adopted in 1982 to reduce proportionately higher

economic impacts of state regulations on small businesses. A small business is defined as any business which has fifty or fewer employees. The RFA requires that all state agencies proposing regulations having an economic impact on more than 10 percent of the businesses in any one industry and on more than 20 percent of all industries in the state prepare a small business economic impact statement (SBEIS). If a rule is found to place a disproportionate impact on small businesses, it must be modified in order to mitigate this effect.

Chapter 174-492 WAC has been reviewed and found to directly affect companies in the following standard industrial classification (SIC) codes: SIC 2911 Petroleum Refineries; SIC 5171 Petroleum Bulk Stations and Terminals; and SIC 554 Retail Gasoline Stations.

Businesses in these SIC codes may choose to become oxygenate blenders by paying a fee to register with the Department of Ecology or the local air authority. No petroleum refineries producing automobile gasoline in Washington are classified as small businesses and therefore are not disproportionately impacted by the rule. Small businesses in the categories for gasoline bulk stations and terminals and retail gasoline stations are disproportionately affected by the rule.

Small businesses in SIC 5171 will have a disproportionate impact resulting from the oxygenate blender registration fee. This effect can be moderated by utilizing a different fee structure in which the registration fee is determined according to a specified dollar amount per gallon of oxygenated gasoline produced for use in control areas.

Almost all retail gasoline stations in Washington are small businesses. Service stations located near control area borders which must compete with noncontrol area stations selling less expensive nonoxygenated products will suffer financial losses. The expansion of control areas to include all western Washington counties in November 1994, will help to mitigate this effect. However, the question remains as to whether all border stations in western Washington will survive until that time and what the net effect will be on stations near the borders of Spokane County.

Complete copies of the SBEIS may be obtained from: Carol Piening, Department of Ecology, Air Programs, P.O. Box 47600, Olympia, WA 98504-7600.

Hearing Location: On June 24, 1992, at 7:00 p.m., Northwest Regional Office, Department of Ecology, 3190 160th Avenue S.E., Bellevue, WA 98008-5452.

Submit Written Comments to: Carol Piening, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by July 1, 1992.

Date of Intended Adoption: September 14, 1992.

May 13, 1992
Fred Olson
Deputy Director

Chapter 173-492 WAC
MOTOR FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE

NEW SECTION

WAC 173-492-010 POLICY AND PURPOSE. The purpose of this regulation is to reduce carbon monoxide emissions from gasoline powered motor vehicles, through the wintertime use of oxygenated gasolines, in areas that are either known or expected to exceed health-based air quality standards.

NEW SECTION

WAC 173-492-020 APPLICABILITY. This regulation shall apply to all gasoline offered for sale in the control areas and over the control periods defined in WAC 173-492-070.

NEW SECTION

WAC 173-492-030 DEFINITIONS. The following words and phrases shall have the following meanings:

"Authority" means an air pollution control authority activated pursuant to chapter 70.94 RCW that has jurisdiction over the subject source.

"Blender" means a person who owns oxygenated gasoline which is sold or dispensed from an oxygenate blending facility for use in a control area during a control period.

"Control area" means an area in which only oxygenated gasoline under the oxygenated gasoline program of this chapter may be sold or dispensed. Each control area is a county or group of counties administered by a separate air pollution control authority.

"Control period" means the period during which oxygenated gasoline must be sold or dispensed within the control area.

"Ecology" means the Washington state department of ecology.

"Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly known or sold as gasoline.

"Large volume blender" means blenders that blend and offer for sale or sell one million gallons or more, but less than fifteen million gallons, of oxygenated gasoline per month on average during a control period within a control area.

"Medium volume blender" means blenders that blend and offer for sale or sell one hundred thousand gallons or more, but less than one million gallons, of oxygenated gasoline per month on average during a control period within a control area.

"Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in the gasoline blend. Lawful use of any combination of these substances requires that they be "substantially similar" under section 211 (f)(1) of the federal Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of section 211 (f)(4) of the CAA.

"Oxygenated gasoline" means gasoline which contains a measurable amount of oxygenate, generally an alcohol or ether.

"Small volume blender" means blenders that blend and offer for sale or sell less than one hundred thousand gallons of oxygenated gasoline per month on average during a control period within a control area.

"Very large volume blender" means blenders that blend and offer for sale or sell fifteen million gallons or more of oxygenated gasoline per month on average during a control period within a control area.

NEW SECTION

WAC 173-492-040 COMPLIANCE REQUIREMENTS. (1) Retail sales. No gasoline intended as a final product for fueling of motor vehicles within the control areas and control periods as defined in WAC 173-492-070 shall be offered for sale, sold or dispensed by any person unless the gasoline has at least 2.0% oxygen content by weight.

(2) Average blend requirements. Over each two-month interval during the control period, gasoline intended as a final product for fueling of motor vehicles within the control areas defined in WAC 173-492-070 supplied by blenders to purchasers within the control areas defined in WAC 173-492-070 shall average at least 2.7% oxygen by weight, and in no case be less than 2.0% oxygen content by weight.

(3) Reports. Blenders shall provide periodic reports, as stipulated in the blenders registration, to ecology or the authority summarizing how the requirements of subsection (2) of this section were met. With prior approval from ecology or the authority, a credit trading program may be used to comply with these requirements. Such reports shall be on forms provided by ecology or the authority.

NEW SECTION

WAC 173-492-050 REGISTRATION REQUIREMENTS. Each blender shall register with ecology or the authority each year, in each control area where a blender offers for sale, sells, or dispenses gasoline. Each request for registration shall be on forms supplied by

ecology or the authority and shall be accompanied by a fee to compensate for the cost of administering the registration program, including on-site inspections necessary to verify compliance with these requirements. The location of each blender facility shall be included in the information provided by the blender at registration. The fee for a control area shall be based on the volume of oxygenated gasoline sold or offered for sale by the blender in that control area to comply with the provisions of WAC 173-492-040. The following fee table shall apply to blenders who register for the 1992-1993 control periods:

| | |
|---|---|
| Small Volume Blender | $ 500 |
| Medium Volume Blender | $ 1,000 |
| Large Volume Blender | $10,000 |
| Very Large Volume Blender | $50,000 |

Registration fees to cover the 1993-1994 control periods and beyond shall be set by regulation by ecology or the authority.

NEW SECTION

WAC 173-492-060 LABELING REQUIREMENTS. In addition to other labeling requirements, fuel dispensing systems delivering oxygenated gasoline shall be conspicuously labeled during the control periods and in the control areas stated in WAC 173-492-070 as follows:

"The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

NEW SECTION

WAC 173-492-070 CONTROL AREAS AND CONTROL PERIODS. Beginning in 1992, the oxygenated gasoline requirements of this chapter shall apply to the following control areas during the following control periods:

| CONTROL AREA | COUNTIES | CONTROL PERIOD | |
|---|---|---|---|
| | | BEGINNING | ENDING |
| Puget Sound | King, Pierce, Snohomish | November 1 | February 29 |
| Southwest | Clark | November 1 | February 29 |
| Spokane | Spokane | September 1 | February 29 |

Beginning November 1, 1994, the control areas shall expand, and the requirements of this chapter shall apply to the following control areas during the following control periods:

| CONTROL AREA | COUNTIES | CONTROL PERIOD | |
|---|---|---|---|
| | | BEGINNING | ENDING |
| Puget Sound | King, Kitsap, Pierce, Snohomish | November 1 | February 29 |
| Southwest | Clark, Cowlitz, Lewis, Skamania, Wahkiakum | November 1 | February 29 |
| Northwest | Island, Skagit, Whatcom, San Juan | November 1 | February 29 |
| Olympic | Clallam, Grays Harbor, Jefferson, Mason, Pacific, Thurston | November 1 | February 29 |
| Spokane | Spokane | September 1 | February 29 |

These oxygenated fuel requirements apply only to the counties on the above list.

NEW SECTION

WAC 173-492-080 ENFORCEMENT AND COMPLIANCE. (1) Compliance with the requirements of this section shall be monitored and enforced by ecology or the authority. Noncompliance shall be subject to the penalties and other remedies provided in chapter 70-.94 RCW.

(2) Ecology or the authority may designate any appropriate agency of the state to assist in the compliance monitoring of this regulation. Ecology shall make every effort to coordinate compliance monitoring of this regulation with the current duties of the department of agriculture division of weights and measures.

(3) Compliance with the standards set forth in this section shall be determined by use of testing methods approved by ecology. The maximum accuracy tolerance of this method shall be limited to +/- 0.3% oxygen by weight, or an equivalent tolerance when measured by volume.

NEW SECTION

WAC 173-492-090 UNPLANNED CONDITIONS. An unplanned condition, such as an unforeseen emergency or "act of God," which may interfere with compliance to this chapter, shall be reported to ecology or the authority as soon as possible. The responsible party shall also submit a full written report within ten days to ecology or the authority, including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence. Compliance with the requirements of this section does not relieve the responsible party from the responsibility to maintain continuous compliance with all the requirements of this chapter nor from the resulting liabilities for failure to comply. Ecology or the authority must consider the circumstances of the unplanned condition, and may use the circumstances when determining enforcement.

NEW SECTION

WAC 173-492-100 SEVERABILITY. The provisions of this regulation are severable and if any provision is held invalid, the application of such provision to the other circumstances and the remainder of this regulation shall not be affected.

## WSR 92-11-044
### PERMANENT RULES
### DEPARTMENT OF ECOLOGY
[Order 92-01—Filed May 19, 1992, 9:20 a.m.]

Date of Adoption: May 18, 1992.

Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC, Mercer Island, city of.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-2515.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to notice filed as WSR 92-09-131 on May 6, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1992
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 88-49, filed 1/6/89)

WAC 173-19-2515 MERCER ISLAND, CITY OF. City of Mercer Island master program approved September 24, 1974. Revision approved May 14, 1981. Revision approved June 18, 1985. ((~~[Revision approved September 16, 1987.]~~)) Revision approved September 16, 1987. Revision approved January 3, 1989. Revision approved May 18, 1992.

## WSR 92-11-045
### EMERGENCY RULES
### DEPARTMENT OF ECOLOGY
[Order 92-23—Filed May 19, 1992, 9:31 a.m.]

Date of Adoption: May 19, 1992.

Purpose: To conditionally exempt spent CFC refrigerants when they are reclaimed or recycled.

Citation of Existing Rules Affected by this Order: Amending chapter 173-303 WAC.

Statutory Authority for Adoption: Chapter 70.105 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The emergency rule was needed to coincide with the new clean air law requirements and to remove a perceived barrier to recycling spent CFC refrigerants, which was leading to the venting of CFCs.

Effective Date of Rule: Immediately.

May 18, 1992
Fred Olson
Deputy Director

NEW SECTION

*WAC 173-303-506 SPECIAL REQUIREMENTS FOR THE RECYCLING OF SPENT CFC OR HCFC REFRIGERANTS. (1) Applicability.*

*(a) This section applies to spent chloroflurocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that are reclaimed or recycled. Refrigerants eligible for these special requirements are those CFCs and HCFCs that were used as heat transfer material in a refrigeration cycle in totally enclosed heat transfer equipment and are subsequently reclaimed or recycled.*

*(b) Persons who generate, transport, or store spent CFC or HCFC refrigerants prior to reclamation or recycling and facilities that reclaim or recycle spent CFC or HCFC refrigerants are subject to the requirements of this section, and WAC 173-303-050, 173-303-145 and 173-303-960. Spent CFC or HCFC refrigerants that are not reclaimed or recycled are subject to all the applicable requirements of Chapter 173-303 WAC. Any discharge of spent CFCs or HCFCs to the environment constitutes disposal and is subject to full regulation under Chapter 173-303 WAC.*

*(2) Generator Requirements.*

*(a) Persons who reclaim or recycle their spent CFC or HCFC refrigerants, either on-site or send their wastes off-site to be reclaimed or recycled, shall keep records for a period of at least 5 years from the date of reclamation/recycling to document:*

*(i) the date of shipment (if sent off-site);*

*(ii) the quantity (by weight) reclaimed/recycled per shipment (when sent off-site) or batch (when recycled on-site);*

*(iii) the percentage of the total amount of CFC or HCFC wastes reclaimed/recycled per shipment or batch (and the manner of disposal for the remaining CFCs or HCFCs); and*

*(iv) the dates of reclamation/recycling.*

*(b) For CFCs or HCFCs sent off-site, the generator must obtain a signed document from the reclamation facility certifying the information in subsection (2)(a) above.*

*(3) Reclamation Facility Requirements.*

*(a) Facilities that reclaim or recycle CFC or HCFC refrigerants shall comply with all the requirements of WAC 173-303-500 (except for -500 (2)(c)(ii)). The applicable provisions of the following sections will also apply:*

*(i) 173-303-280(2), General requirements for dangerous waste management facilities, Imminent hazard;*

*(ii) 173-303-283, Performance standards;*

*(iii) 173-303-290 (1) and (2), Required notices;*

*(iv) 173-303-380, Facility recordkeeping; except for (1)(c), (e) and (h);*

*(v) 173-303-390(3), Facility reporting;*

*(vi) 173-303-630(1), Use and management of containers;*

*(vii) 173-303-640 (1), (2), (8) and (10), Tank systems, except 173-303-640 (8)(c) and the second sentence of 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section).*

*(b) The reclamation facility must supply generators with a signed document certifying the information in subsection (2)(a) above.*

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*It should be noted that section 173-303-120(3) applies to sections 500 through 525, and therefore applies to this proposed rule.*

## WSR 92-11-046
### PROPOSED RULES
### DEPARTMENT OF LICENSING
[Filed May 19, 1992, 10:15 a.m.]

Original Notice.

Title of Rule: WAC 308-93-241 Confidential vessel registration—Application procedure; 308-93-242 Confidential vessel registration—Agency contact; 308-93-243 Confidential vessel registration—Annual inventory; 308-93-244 Confidential vessel registration—Refusal; and 308-93-245 Confidential vessel registration—Record disclosure.

Purpose: Adopt rules for confidential vessel registration program.

Statutory Authority for Adoption: RCW 88.02.035(3).

Statute Being Implemented: RCW 88.02.035.

Summary: Sets forth the conditions for making application, receiving and accountability of confidential vessel registration.

Reasons Supporting Proposal: Implementation of RCW 88.02.035.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, Highways-Licenses Building, 753-7379; Implementation: Rob Eddy, Highways-Licenses Building, 753-6920; and Enforcement: Nancy Kelly, Highways-Licenses Building, 753-6920.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-93-241, establish procedure for application of a confidential vessel registration; WAC 308-93-242, establish the agency head or their designee as only person who may sign an application for confidential vessel registration; WAC 308-93-243, provides that any agency issued confidential vessel registrations must provide annual inventory of such vessel to the department; WAC 308-93-244, provides conditions under which the department may refuse to issue or may cancel a confidential vessel registration; and WAC 308-93-245, provides conditions for public disclosure of confidential registered vessels.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Highways-Licenses Building, 125 12th Avenue, Olympia, WA 98504, on June 23, 1992, at 1:00-3:00.

Submit Written Comments to: Nancy Kelly, Administrator, Title/Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, by June 22, 1992.

Date of Intended Adoption: July 1, 1992.

May 19, 1992
David M. Hankins
Assistant Attorney General

NEW SECTION

WAC 308-93-241 CONFIDENTIAL VESSEL REGISTRATION—APPLICATION PROCEDURES. (1) Requests for confidential vessel registration shall be in writing, addressed to the administrator, title and registration services, department of licensing, Olympia, Washington and shall be accompanied by the following:

(a) An application for confidential vessel registrations, on a form furnished by the department;

(b) An explanation in support of the request for confidential vessel registrations, on a form furnished by the department, setting the purposes for which the vessel registration will be used, and why confidential vessel registrations are necessary to accomplish this purpose;

(c) Copies of documents establishing that the vessel is owned or controlled by the agency requesting issuance of confidential vessel registrations; acceptable documents include, but are not limited to, current certificate of title or registration, manufacturer's statement of origin, court order or seizure documents;

(d) Such other documentation as the department at its own discretion may reasonably require.

(2) The request, application, and explanation shall be signed by the agency head or designated contact person.

NEW SECTION

WAC 308-93-242 CONFIDENTIAL VESSEL REGISTRATION—AGENCY CONTACT. (1) Except as provided in subsection (2) of this section, the only person authorized to request issuance of confidential vessel registrations or sign correspondence pertaining to the confidential vessel registration program, is the agency head, which shall include regional federal agency administrators and military commanding officers.

(2) The agency head may designate a maximum of two additional individuals within the agency as contact persons authorized to sign applications and correspondence pertaining to the confidential vessel registration program.

(3) The agency head must submit information to the department of licensing, on a form provided by the department, indicating the name, title, address, and telephone number of each additional contact person.

(4) Upon removal or replacement of an agency head or designated contact person, the department of licensing shall be notified in writing within five days of the change, and a new form as indicated in subsection (3) of this section shall be forwarded to the department.

NEW SECTION

WAC 308-93-243 CONFIDENTIAL VESSEL REGISTRATIONS—ANNUAL INVENTORY. By May 31 of each year, each agency having confidential vessel registrations in its possession shall furnish an inventory of the confidential vessel registrations to the department. The inventory shall include:

(1) A list of confidential vessel registrations;

(2) The make, year of manufacture, and identification number of each vessel bearing confidential vessel registrations;

(3) A certification, signed by the agency head or designated contact person, that all vessel registrations issued to the agency are being utilized solely for those purposes specified by RCW 88.02.035.

NEW SECTION

WAC 308-93-244 CONFIDENTIAL VESSEL REGISTRATIONS—REFUSAL. (1) The department of licensing may cancel or refuse to issue or reissue a confidential vessel registration when it has reason to believe the registration is being used for purposes not authorized in RCW 88.02.035. Issuance of the registration would violate the intent or meaning of the referenced statute.

(2) When an agency no longer requires a confidential vessel registration or the registration is canceled, the validation decal must be removed and destroyed and the confidential registration returned to the department of licensing for deletion from the agency's inventory.

NEW SECTION

WAC 308-93-245 CONFIDENTIAL VESSEL REGISTRATIONS—RECORDS DISCLOSURE. (1) In accordance with RCW 42.17.310(2), files, records, documents, and any other information pertaining to the confidential vessel registration program shall be exempt from public inspection and copying, as such disclosure would be contrary to vital government interests.

(2) Information concerning the confidential vessel registrations issued to any particular agency shall not be released, except to the agency head or the designated contact person(s).

(3) Nothing herein shall be construed to prohibit the disclosure of statistical information which is not descriptive of the identity of the confidential vessel or its usage.

## WSR 92-11-047
### PROPOSED RULES
## DEPARTMENT OF LICENSING
[Filed May 19, 1992, 10:16 a.m.]

Original Notice.

Title of Rule: WAC 308-58-020 Method of reporting destruction; and 308-58-040 Destroyed vehicle rebuilt.

Purpose: Amend method for reporting a destroyed vehicle and describing rebuilt on the vehicle title.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 46.12 RCW.

Summary: Housekeeping amendments to clarify procedure for reporting destroyed vehicles and branding reissued titles.

Reasons Supporting Proposal: To improve customer service and update rules.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, Highways-Licenses Building, 753-7379; Implementation and Enforcement: Nancy Kelly, Highways-Licenses Building, 753-6920.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-58-020, amend reporting address, delete need to surrender old license plate; and WAC 308-58-040, amend and clarify condition of certificate of innership [ownership] and application for title of a vehicle previously reported as destroyed. Authorizes retention of old license plates.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Highways-Licenses Building, 125 12th Avenue, Olympia, WA 98504, on June 23, 1992, at 1:00-3:00.

Submit Written Comments to: Nancy Kelly, Administrator, Title/Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, by June 22, 1992.

Date of Intended Adoption: July 1, 1992.

May 19, 1992
David M. Hankins
Assistant Attorney General

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

WAC 308-58-020 METHOD OF REPORTING DESTRUCTION. (1) An insurance company settling a claim for a destroyed vehicle will report such settlement by using one of the following two methods:

(a) If the title is in the insurer's possession, the title will be forwarded to the department within fifteen days of the settlement. The insurer will type or print on the title, the name and address of the insurer, a notation "DESTROYED" or, in the event the vehicle is a total loss under the definitions contained in WAC 308-58-010, but in the opinion of the insurer may be repaired at a cost not to exceed sixty percent of its fair market value if repaired, a notation "TOTAL COST OF REPAIR LESS THAN SIXTY PERCENT," and the approximate date of destruction. The requested information will be placed on the title in such a manner as not to obscure any of the printed matter on the title itself. The title, with the information thereon, will be mailed to the ((~~Vehicle Records Section~~)) Technical Services Unit, Department of Licensing, PO BOX 9042, Olympia, ((~~Washington 98504~~)) WA 98507-9042.

(b) If the destroyed vehicle and its title do not come into the insurer's possession, the insurer will report the fact of settlement within fifteen days of settlement on a form to be supplied by the department. The report will include the following information:

(i) Year, make, series and body style of vehicle;

(ii) License plate number, last year of registration and name of state in which registered;

(iii) Registered and legal owner's name and address, if known;

(iv) Cause of damage;

(v) If the vehicle is repairable (A vehicle should be considered repairable only if its cost of repair would not exceed sixty percent of its fair market value if repaired.);

(vi) Date and amount of sale;

(vii) Name and address of the purchaser and if the purchaser is the assured, a private party, a salvage buyer, or a motor vehicle wrecker;

(viii) Name and address of insurance company or adjuster;

(ix) Date of report.

(2) Any private party, government agency, or self-insured person shall, upon destruction of a vehicle registered in their name, forward the title to the department within fifteen days of the destruction of the vehicle. The title must be endorsed by the legal owner to release their interest, if the legal owner is not the same as the registered owner. The registered owner will print or type on the title the word "DESTROYED," the approximate date of destruction and sign the title. ((~~The license plates from the vehicle will be surrendered to any office of the department of licensing.~~))

The title for a vehicle that has been destroyed, which title has not been surrendered to the department, shall be cancelled. Notice of this cancellation will be mailed to the legal owner of the vehicle by regular mail to the address as shown in the department's vehicle records. The legal owner will promptly return the cancelled title to the department.

AMENDATORY SECTION (Amending Order MV 142, filed 8/28/72)

WAC 308-58-040 DESTROYED VEHICLES REBUILT. ((~~An application for title to a destroyed~~)) Certificates of ownership and registration reissued for a vehicle reported destroyed that is less than four years old ((~~that has been repaired~~)) will contain the word "REBUILT" ((~~just above the applicable series and body type in the space reserved on the application for series and body type~~)) in an appropriate location on the certificate of ownership and the certificate of registration. This description will continue to appear on every subsequent certificate issued by the department for this vehicle.

The application for certificate of ownership of the vehicle will be accompanied by a bill of sale ((~~for the vehicle, passing~~)) transferring ownership to the applicant ((~~for title~~)) and a Washington state patrol inspection if the vehicle is to be operated in Washington as provided in WAC 308-56A-460. ((~~The application must also be accompanied by a signed statement confirming that the vehicle's identification number is the same as that shown on the application for title. This statement must be signed by someone authorized by the director of motor vehicles to confirm vehicle identification numbers. The former license plate cannot be transferred. An original license plate must be purchased.~~

~~When the new title is prepared by the department, the title and registration will contain the word "REBUILT" in an appropriate location on each certificate. This identification will continue to appear on every certificate issued by the department for this vehicle whenever it is licensed or titled in Washington.~~

~~The requirements of this section shall not be applicable to a vehicle for which the cost of repair does not exceed sixty percent of the fair market value of the vehicle, if repaired, as determined by the insurance company report or title.~~))

## WSR 92-11-048
### PROPOSED RULES
### DEPARTMENT OF LICENSING
[Filed May 19, 1992, 10:19 a.m.]

Original Notice.

Title of Rule: WAC 308-57-230 Fleet abatement; 308-56A-010 Title purpose only; 308-56A-040 Form required for name and address—Address; 308-56A-250 Signature of registered owner on application—Exceptions; 308-56A-260 Signature of legal owner on application; 308-56A-450 Glider kits; 308-56A-455 Assembled and homemade vehicles; 308-56A-460 Destroyed vehicle rebuilt; and 308-56A-465 Fleets.

Purpose: WAC 308-57-230, clarification to the abatement of license fee and excise taxes to be paid when registering a fleet vehicle for the first time; WAC 308-56A-010, authorizes the issuance of title purpose only documents for travel trailers and campers; WAC 308-56A-040, delete the requirement for registered owners to provide the school district number when requesting a change of address. Clarification of address; WAC 308-56A-250, authorize the addition of lienholder's without the signature of the registered owners under certain conditions; WAC 308-56A-260, repeal of the requirement for lienholder's to sign an application for title showing them as the legal owner; WAC 308-56A-450, delete an assessors appraisal to establish the value for glider kits; WAC 308-56A-455, delete an assessors appraisal to establish the value for homemade vehicles; WAC 308-56A-460, describes the conditions under which a destroyed vehicle may be rebuilt and titled by a vehicle dealer. Retention of license plates; and WAC 308-56A-465, revision to application for fleet identification.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 46.16 RCW.

Summary: Housekeeping amendments to clarify existing RCW provisions.

Reasons Supporting Proposal: To improve customer service and update rules.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, Highways–Licenses Building, 753–7379; Implementation and Enforcement: Nancy Kelly, Highways–Licenses Building, 753–6920.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308–57–230, authorizes fees and taxes to be abated due to December 31 expiration date of fleet vehicles; WAC 308–56A–010, authorize title purpose only document for travel trailers and campers; WAC 308–56A–040, delete need for school district no., request code for county of new address; WAC 308–56A–250, authorize government agency to file as lienholder without owner signature; WAC 308–56A–450, delete appraisal when value of glider kit is in doubt, clarification of process; WAC 308–56A–455, delete appraisal when value of vehicle is in doubt; WAC 308–56–460, redefines procedure for dealers to title rebuilt vehicle, authorizes retention of old vehicle license plates; WAC 308–56A–465, redefines procedure for registration of a vehicle to a fleet; and WAC 308–56A–260, repealed.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Highways–Licenses Building, 125 12th Avenue, Olympia, WA 98504, on June 23, 1992, at 1:00–3:00.

Submit Written Comments to: Nancy Kelly, Administrator, Title/Registration Services, P.O. Box 2957, Olympia, WA 98507–2957, by June 22, 1992.

Date of Intended Adoption: July 1, 1992.

May 19, 1992
David M. Hankins
Assistant Attorney General

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308–56A–010 TITLE PURPOSE ONLY. Certificates of title may be issued ((~~to vehicles~~)) without ((~~issuing a~~)) certificates of registration((~~. This does not apply to travel trailers and campers, unless held in a dealer's inventory but may include~~)) including but not limited to the following vehicles:

(1) Vehicles required to display valid vehicle number license plates prior to operating on the public highway pursuant to chapter 46.16 RCW;

(2) Farm tractors or farm equipment;

(3) ((~~All terrain~~)) Off–road vehicles (ORV) whether or not required to obtain an ((~~ATV~~)) ORV use permit;

(4) Golf carts and dune buggies whether or not equipped for legal highway use;

(5) Off highway equipment that may be moved upon public highways by special permits.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308–56A–040 FORM REQUIRED FOR NAME AND ADDRESS—ADDRESS. The address of the registered and legal owner must be shown on the application as the address at which the owner regularly receives mail. If there is a change in the address, the department must be notified with the following information:

(1) The registered owner's name as it appears on the department records ((~~must be printed or typed~~));

(2) The license plate number of each vehicle;

(3) The new address with zip code and county of the new address;

(4) Whether or not the new address is in an incorporated or unincorporated area((;

~~(5) The school district number where the vehicle generally is located is required for each travel trailer and camper~~)).

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308–56A–250 SIGNATURE OF REGISTERED OWNER ON APPLICATION—EXCEPTIONS. On an application for an original, reissue, or transfer of certificate of title, the signature of each and every named registered owner of the vehicle is required except:

(1) When the application is for the sole purpose of removing a legal owner of record from the certificate of title when that legal owner's security interest has been satisfied in the vehicle;

(2) When authorized supportive documentation is used in lieu of the signature or signatures;

(3) When the legal owner applies for a duplicate title;

(4) When there is a ((~~change in the~~)) statutorily authorized lien filed by a government agency to place a lien against the vehicle as a secured party.

(5) When an existing legal owner's perfected security interest is transferred to another party and the new legal owner is perfecting their security interest and removing the existing legal owner. Evidence or documentation of the secured interest transfer must be provided.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308–56A–450 GLIDER KITS. (1) A glider kit is a new cab and chassis designed for assembly with an existing truck or truck–tractor's axles, wheels and power train.

(2) The following procedures will be followed in ((~~filling out the~~)) filing an application for ((~~reissue of~~)) title:

(a) The model year of the vehicle will ((~~become~~)) be the year ((~~during which~~)) designated by the kit ((~~is installed~~)) manufacturer or the Washington state patrol;

(b) The make of the vehicle will ((~~become~~)) be the make of the kit;

(c) The series and body type will include the initials GL;

(d) The identification number of the vehicle will be determined by an authorized vehicle identification inspector.

(3) The application for title must be accompanied by the following documents:

(a) The previously issued certificates of title ((~~and registration~~));

(b) The previously issued ((~~tonnage~~)) gross weight license when applying for credit against the registration fee;

(c) A certificate of inspection by an authorized member of the Washington state patrol verifying the vehicle identification number and of component parts not included in the glider kit manufacturer's statement of origin (MSO);

(d) A certified weight slip showing the new scale weight of the vehicle;

(e) ((~~A manufacturer's statement of origin~~)) An MSO or bill of sale of the kit;

(f) ((~~An assessor's appraisal to establish the basis for determining the applicable amount of excise tax.~~)) A declaration of value form provided by the department.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308–56A–455 ASSEMBLED AND HOMEMADE VEHICLES. (1) Assembled and homemade vehicles are vehicles that have either (a) been put together by using major component parts from two or more commercially manufactured vehicles (major component parts often carry separate identification numbers); (b) have been structurally

modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or (c) have been put together from parts and materials not obtained from other vehicles. An assembled vehicle can be one that has been sold by a wrecker who listed the vehicle on his wrecker's report pursuant to chapter 308-61 WAC. The difference between an assembled and a homemade vehicle is that an assembled vehicle will be recognizable as one produced by a particular manufacturer. A homemade vehicle will be a vehicle that cannot, visually, be identified as one produced by a particular manufacturer. The model year of a homemade vehicle will be the original year of licensing and the make will be homemade.

(2) The following procedures must be followed in applying for a certificate of title:

(a) If the assembly or repair of the vehicle will involve the removal, destruction, or concealment of any identification number, the parts shall be inspected by an authorized member of the Washington state patrol prior to the removal, destruction, or concealment of the number.

(b) The vehicle identification number will be determined and/or assigned by an authorized member of the Washington state patrol, or other personnel authorized by the director.

(c) The application for certificate of title must be accompanied by the following documents:

(i) The certificate of title for each vehicle used in the assembly of the vehicle or bills of sale for each major component part used in the assembly of the vehicle. The bills of sale must be notarized unless the vendor has a regular place of business and is registered with the department of revenue as an agent for use tax purposes. Such bill of sale shall include the names and addresses of the seller and purchaser; a description of the vehicle or part being sold, including the make, model and identification or serial number; the date of sale; and the purchase price of the vehicle or part.

(ii) A statement from the authorized inspector verifying the vehicle identification number.

(iii) ((~~An assessor's appraisal to determine the value for excise tax.~~)) A declaration of value form provided by the department.

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

WAC 308-56A-460 DESTROYED VEHICLE REBUILT. (1) Any vehicle reported as destroyed pursuant to WAC 308-58-020 (1) or (2) that will be operated on any public road or highway, must be issued a new certificate of ownership and registration. The application for a new title shall include a Washington state patrol inspection and a bill of sale from:

(a) The insurance company that declared the vehicle a total loss, less salvage value; or

(b) A motor vehicle wrecker; or

(c) The last registered owner of record with the department.

(2) When the last registered owner retains a vehicle that is reported destroyed, the owner must apply for a new certificate of ownership before operating the vehicle upon a public road or highway. The application for title must include a Washington state patrol inspection and a bill of sale as provided in subsection (1) of this section.

(3) ((~~The~~)) Regular license plates ((~~from~~)) assigned to a destroyed vehicle ((~~shall not~~)) may be transferred to a new owner of the vehicle. Fees will be charged ((~~as if the vehicle was being titled and licensed for the first time~~)) for a reissue of title and for an expired registration. If the owner of record retains the vehicle, ((~~the~~)) a fee will be charged ((~~will be that~~)) for reissue of title and for an expired registration. The license plates may be retained.

(4) Before a vehicle dealer may sell a destroyed vehicle under their vehicle dealer license, the dealer must:

(a) Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and

(b) Obtain a Washington state patrol inspection; and

(c) Apply for and receive a certificate of title for the vehicle, issued in the name of the vehicle dealer.

AMENDATORY SECTION (Amending Order TL/RG 46, filed 11/9/88)

WAC 308-56A-465 FLEETS. Any person that has been issued a fleet identifier code by the department who makes application for ((~~title by~~)) a ((~~registered owner having fifteen or more~~)) vehicle certificate of ownership may have the vehicle((~~s~~)) registered ((~~in that name shall be identified~~)) as a ((~~"~~))part of their fleet((~~"~~)) by placing ((~~this "~~))their fleet ((~~owner"~~)) identifier ((~~symbol~~)) code on the application. ((~~The identifier symbol is issued by the department of licensing in Olympia.~~))

REPEALER (Amending Order TL/RG 46, filed 11/9/88)

The following section of the Washington Administrative Code is repealed:

WAC 308-56A-260 SIGNATURE OF LEGAL OWNER ON APPLICATION.

AMENDATORY SECTION (Amending WSR 91-04-026, filed 1/29/91, effective 3/1/91)

WAC 308-57-230 FLEET ABATEMENT. A fleet vehicle, which is required ((~~by WAC 308-96A-260~~)) to have a December registration expiration date, shall be charged excise tax based on the current depreciation rate for the number of months required to license through December. If the ((~~owner wishes to renew the registration for this fleet~~)) vehicle is registered for the following year at the same time, ((~~the vehicle shall also be charged~~)) an additional twelve months excise tax shall be charged at the following year's depreciation rate.

## WSR 92-11-049
### PROPOSED RULES
### DEPARTMENT OF LICENSING
[Filed May 19, 1992, 10:21 a.m.]

Original Notice.

Title of Rule: WAC 308-94-030 Application for registration; WAC 308-94-080 Nonresident temporary snowmobile permit; and WAC 308-94-200 Off-road and nonhighway vehicle use permit period.

Purpose: Permit acceptance of bills of sale as evidence of ownership when applying for snowmobile registration; administrative clarification of snowmobile nonresident conditions; and prescribing day to day registration.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapters 46.09 and 46.10 RCW.

Summary: Housekeeping amendments to recognize snowmobile bills of sale and nonresidents from any foreign jurisdiction; and day to day registration of off-road vehicles.

Reasons Supporting Proposal: To improve customer service.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, Highways-Licenses Building, 753-7379; Implementation and Enforcement: Nancy Kelly, Highways-Licenses Building, 753-6920.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-94-030, authorizes the use of a bill of sale or a purchase agreement to evidence ownership of a snowmobile for registration purposes; WAC 308-94-080, expands nonresident from the other states to other jurisdictions for nonresident temporary snowmobile permit purposes; and WAC 308-94-200, amends the validation period of off-road use permits to correspond with other vehicle registration day to day period.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Highways-Licenses Building, 125 12th Avenue, Olympia, WA 98504, on June 23, 1992, at 1:00-3:00.

Submit Written Comments to: Nancy Kelly, Administrator, Title/Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, by June 22, 1992.

Date of Intended Adoption: July 1, 1992.

May 19, 1992
David M. Hankins
Assistant Attorney General

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-030 APPLICATION FOR REGISTRATION. An application for registration of a snowmobile shall include:

(1) Name and address of registered owner(s);

(2) Make and model year of snowmobile;

(3) Method of propulsion, including but not limited to skis, tracks, wheels or combination thereof;

(4) Purchase price and year of purchase or declared value and year of declaration;

(5) Proof of payment of sales tax or a bill of sale establishing the price paid for the vehicle;

(6) The previously issued registration certificate((;)) or a duplicate thereof, or a bill of sale if the application is for the transfer of a registered snowmobile. If the snowmobile has not been previously registered in this state, a bill of sale or a purchase agreement shall be provided;

(7) Vehicle identification number; and

(8) Appropriate fees.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-080 NONRESIDENT TEMPORARY SNOWMOBILE PERMIT. An application for a nonresident temporary permit shall include:

(1) Name and address of the applicant;

(2) Plate or registration number if registered in another ((~~state~~)) jurisdiction;

(3) Make and year of vehicle;

(4) Vehicle identification number;

(5) Method of propulsion, including but not limited to skis, tracks, wheels, or combination thereof;

(6) Appropriate fees; and

(7) Expiration date of the foreign ((~~state~~)) registration if registered in another jurisdiction.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-200 OFF-ROAD AND NONHIGHWAY VEHICLE USE PERMIT PERIOD. (1) The registration year of off-road and nonhighway annual use permits will commence ((~~with~~)) on the ((~~first~~)) day ((~~of the calendar month in which~~)) the off-road and nonhighway permit is first applied for, and end the ((~~last~~)) same day ((~~of the preceding month~~)) of the following calendar year((~~, except that permits first applied for in January will end December 31 of the same calendar year~~)).

(2) Subsequent renewals of the off-road and nonhighway annual use permit will retain the registration ((~~year~~)) month and day first established, provided that if a new owner applies for an off-road or nonhighway annual use permit at time of applying for transfer of title, and the off-road and nonhighway permit ((~~has been~~)) is expired ((~~for more than thirty days~~)), a new registration ((~~year may~~)) date will be established. ((~~Also,~~)) If an off-road and nonhighway vehicle has not been licensed as an off-road and nonhighway vehicle for the registration year immediately preceding the registration year in which the application for off-road and nonhighway annual use permit is being made, or when the vehicle has been registered in another jurisdiction subsequent to any prior off-road and nonhighway registration in Washington, a new registration year may be assigned. There is no abatement of the off-road and nonhighway annual use permit fee.

(3) An owner desiring to continue operating an off-road and nonhighway vehicle shall renew the nonhighway annual use permit and display the validating tab no later than the first day of the ((~~month immediately following the month of expiration of the previously issued validating tab~~)) new registration year, or shall in lieu thereof purchase and display a temporary use permit valid for sixty days.

## WSR 92-11-050
### PROPOSED RULES
### DEPARTMENT OF LICENSING
[Filed May 19, 1992, 10:24 a.m.]

Original Notice.

Title of Rule: WAC 308-96A-005 Terminology; 308-96A-026 Vehicle transit permit; 308-96A-035 Annual license renewal—No prebill/correction; 308-96A-161 Regular fleet registrations; 308-96A-162 Permanent fleet registration; and 308-96A-275 Assignment of fleet registration expiration.

Purpose: Housekeeping amendments and changes in the number of vehicles needed to qualify for a permanent fleet.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 46.16 RCW.

Summary: Redefine and update the permanent fleet program. Housekeeping amendments to update vehicle transit permits and record changes.

Reasons Supporting Proposal: Improve customer service and fleet registration enforcement.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, Highways-Licenses Building, 753-7379; Implementation: Deborah McCurley, Highways-Licenses Building, 753-0265; and Enforcement: Nancy Kelly, Highways-Licenses Building, 753-6920.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-96A-005, redefines "no bill," "fleet," "perm or permanent fleet" and "day of application"; WAC 308-96A-026, administrative clarification of vehicle transit permit; WAC 308-96A-035, repeal reference to manual renewal, which is not applicable, and update the rule to present record change procedures; WAC 308-96A-161, identify regular feets [fleets] as being 15 or more vehicles and adding cancellation provisions; WAC 308-96A-162, identify permanent fleets as being 100 or more vehicles, adding a grandfather clause for fleets presently registered, and adding cancellation provisions; and WAC 308-96A-275, redefine proration of fleet original vehicle fees to accommodate a December 31 expiration date.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Highways-Licenses Building, 125 12th Avenue, Olympia, WA 98504, on June 23, 1992, at 1:00-3:00.

Submit Written Comments to: Nancy Kelly, Administrator, Title/Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, by June 22, 1992.

Date of Intended Adoption: July 1, 1992.

May 19, 1992
David M. Hankins
Assistant Attorney General

AMENDATORY SECTION (Amending WSR 92-02-100, filed 1/2/92, effective 2/2/92)

WAC 308-96A-005 TERMINOLOGY. (1) The terms "licensing" and "registering" are synonymous for a transaction in which either the vehicle's registration expiration or the gross weight license or both is updated on the department's records. A registration certificate and current validation tabs are issued to the applicant unless the vehicle has current tabs or a permanent registration certificate and validation tabs, such as permanent fleet, Disabled American Veteran, or government owned vehicles.

(2) The terms "tonnage," "gross weight license," "license based on gross weight," and "gross weight fees" are used interchangeably when referring to license fees that are collected annually from owners of motor trucks, truck tractors, road tractors, tractors, bus, auto stage, or for hire vehicles with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight.

(3) "Capacity fee" is used to refer to the load license for stages and for-hire vehicles with seating capacity of six or less and for fixed load vehicles including circus and tow.

(4) The term "no bill" refers to the notice to renew a license which is mailed by the department to the registered owner in lieu of a prebill. ((~~This form indicates~~)) The no bill requires additional information ((~~that is required~~)) prior to the registration for the current year license.

(5) A "prebill" is the notice to renew a vehicle license which is mailed by the department to the registered owner.

(6) References to "current year" mean the current registration year unless otherwise stated.

(7) "Month of expiration" or "expiration month" is the calendar month during which a registration year ends.

(8) A "fleet" is a group of ((~~fifteen or more~~)) vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

(a) "Perm or permanent fleet" means a fleet of one hundred or more commercial vehicles licensed to one registered owner where each vehicle is issued nonexpiring tabs and registration. ((~~Individual permanent fleet vehicles are not eligible for monthly license fee based on gross weight.~~))

(b) "Regular fleet" means a fleet licensed to one registered owner where each vehicle is issued year and month tabs.

(9) "License fee" means and is limited to the fees required for the act of licensing a vehicle as set forth in chapter 46.16 RCW. License fee excludes the fees required for special vehicle license plates authorized by chapter 46.16 RCW.

(10) "Ride sharing van" for purposes of RCW 82.08.0287, 82.12-.0282, and 82.44.015 means a passenger vehicle with a seating capacity of no fewer than seven nor more than fifteen persons including the driver. The seating capacity may not be fewer than five persons including the driver when at least three passengers are confined to a wheelchair.

(11) "Day of expiration" is the day of the month that the registration, gross weight license, and tabs expire.

AMENDATORY SECTION (Amending Order TL/RG 28, filed 11/18/86)

WAC 308-96A-026 VEHICLE TRANSIT PERMIT ((~~PRIOR TO REGISTRATION~~)). A vehicle transit permit may be issued to authorize an individual to operate a vehicle over and along a public highway of this state solely for the purpose of doing what is necessary to qualify the vehicle for a Washington certificate of ((~~vehicle~~)) ownership or registration. Such purposes are limited to the following:

(1) Obtaining a Washington state patrol inspection (if required);

(2) Obtaining a weight slip;

(3) Obtaining an emission test; or,

(4) ((~~Another specific~~)) Any other purpose which the director or designee in his or her discretion deems necessary ((~~in order to obtain a Washington certificate of registration for the vehicle. There is no fee charged for this permit~~)).

The permit is valid for a maximum of two days ((~~only~~)) and shall contain, but is not ((~~be~~)) limited to, the following information:

(a) Signature and agency number of persons issuing the permit;

(b) Signature and address of person receiving the permit;

(c) Description, including make, model, model year, and vehicle identification number, of the vehicle for which the permit is issued;

(d) Specific purpose for which the permit is issued; and,

(e) The date or dates on which the permit is valid, for a maximum of two days.

AMENDATORY SECTION (Amending Order TL/RG 24, filed 5/5/86)

WAC 308-96A-035 ((~~MANUAL~~)) ANNUAL LICENSE RENEWAL—NO PREBILL/CORRECTION. (1) ((~~If errors exist on the prebill or if the~~)) When a registered owner wishes to make a change ((~~"class," "tonnage," etc.~~)) to the information pertaining to the vehicle or their owner address, or if a prebill was not received, application shall be made ((~~on a manual form furnished by the department~~)) by mailing or appearing in person at any of the vehicle licensing offices to effect such change or to renew the registration.

(2) The applicant must satisfy the licensing agent as to his/her identity by at least one of the following:

(a) A valid Washington state driver's license;

(b) A valid Washington state identicard;

(c) A photo identification card;

Or in the event the above are not available, two of the following:

A nationally or regionally known credit card containing the signature of the applicant;

An identification card issued by the United States, any state, or any agency of either, of a kind commonly used to identify the members or employees of such government agencies (including military ID cards) and which contain the signature of the applicant;

Any certificate or other document issued by any governmental agency commonly used for the purpose of establishing identities; or

Such other documentary evidence as in the opinion of the licensing agency clearly establishes the identity of the applicant.

(3) Nothing in this regulation shall be construed as prohibiting a member of the immediate family of the registered owner to effect such ((~~manual~~)) renewal, if he/she is able to prove his/her identity and relationship to the registered owner.

AMENDATORY SECTION (Amending WSR 91-15-006, filed 7/8/91, effective 8/8/91)

WAC 308-96A-161 REGULAR FLEET REGISTRATION. Any owner of a fleet of fifteen or more vehicles may apply for and be issued a regular fleet identifier code by the department. The owner may have any vehicle with a certificate of title in the same owner name registered using the regular fleet identifier code. Regular vehicle license plate month and year tabs shall be issued. Monthly ((~~tonnage~~)) gross weight license may be purchased for individual vehicles.

Any vehicle with an expired registration will be removed from the regular fleet. Failure of the owner to maintain a minimum of fifteen vehicles with current registrations under the owner's fleet identification code shall automatically cause cancellation of their fleet identification code and removal of all of the owner's vehicles from the regular fleet designation.

AMENDATORY SECTION (Amending WSR 91-15-006, filed 7/8/91, effective 8/8/91)

WAC 308-96A-162 PERMANENT FLEET REGISTRATION. (1) Any owner of a fleet of one hundred or more vehicles used for commercial purposes may apply for and be issued a permanent fleet identifier code by the department. Permanent fleets that were issued identifies codes prior to April 1986 may continue to use the permanent fleet code issued without satisfying the one hundred or more vehicle requirement set forth in this section. The owner may have any vehicle used for commercial purpose, with a certificate of title in the same owner name registered using the permanent fleet identifier code. Nonexpiring license plate tabs and registration documents shall be issued. Annual ((~~tonnage~~)) gross weight license must be purchased for ((~~individual~~)) each applicable vehicle((~~s~~)).

(2) Any vehicle with an expired registration will be removed from the fleet. Failure of the owner to maintain a minimum of one hundred vehicles with current registrations under the owner's fleet identifier code except as provided in subsection (1) of this section shall automatically cause cancellation of their permanent fleet identifier code and removal of all of the owner's vehicles from the permanent fleet designation.

AMENDATORY SECTION (Amending WSR 92-02-100, filed 1/2/92, effective 2/2/92)

WAC 308-96A-275 ASSIGNMENT OF ((~~RENEWAL~~)) FLEET REGISTRATION EXPIRATION. Registration renewals for fleet vehicles will be for twelve months expiring on December 31 of the following year. If a vehicle is added to a fleet or is prorated, fees will be ((~~charged~~)) collected for the number of months necessary to have a December 31 registration expiration date. For any partial month from the current expiration date to the December 31 expiration date, a full month's fees will be charged. Fees may be ((~~charged~~)) collected from ((~~one~~)) four to eighteen months to adjust the expiration date. Any vehicle added to a fleet from October 1 through December 31 will be issued an expiration date of December 31 of the following year.

## WSR 92-11-051
### PROPOSED RULES
### WASHINGTON STATE PATROL
[Filed May 19, 1992, 11:42 a.m.]

Original Notice.

Title of Rule: WAC 446-16-025, 446-16-030, 446-16-080 and 446-16-090, Conviction records.

Purpose: Address change and housecleaning purposes.

Statutory Authority for Adoption: RCW 10.97.080 and 10.97.090.

Summary: Address has changed from 3330 to 3310 Capitol Boulevard, in Tumwater, WA. Mailstop has changed from QE-02 to 2633. Male gender language amended.

Reasons Supporting Proposal: These changes will keep the public informed of the current address of the Washington State Patrol identification section.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lieutenant Rick Phillips, Olympia, Washington, 753-6827.

Name of Proponent: Washington State Patrol, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The address of the Washington State Patrol identification section for purposes of obtaining conviction records has been updated. Also, miscellaneous housekeeping changes have been inserted.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, Olympia, Washington 98504-2607, on June 25, 1992, at 1:30 p.m.

Submit Written Comments to: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, Olympia, Washington 98504-2607, by June 25, 1992.

Date of Intended Adoption: June 30, 1992.

May 19, 1992
George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-025 EXPUNGEMENT OF ARREST RECORDS. (1) A person desiring the destruction of his fingerprints and/or other identifying data, pursuant to RCW 43.43.730, shall make his request therefor on a form furnished by the Washington state patrol section on identification. The request shall be mailed or delivered to the central office of the section located at ((~~3330~~)) 3310 Capitol Boulevard, Tumwater, Washington.

(2) The request shall be completed, signed by the person whose record is sought to be expunged and his signature witnessed. It shall include the address of the applicant, the printed name and the address of the witness to the applicant's signature and such other information requested on the application as identifies the applicant and the offense for which the request of expungement is made.

(3) The request shall include reasonable proof that the person making the request for expungement is the same person whose fingerprints or other identifying data are sought to be expunged. Such proof shall include fingerprints of the applicant if requested by the section.

(4) The request shall include reasonable proof that the person making the request has no prior criminal record and that he has been found not guilty of the offense for which the fingerprints and/or other identifying data were taken or was finally released without a conviction for such offense having been obtained or has other lawful grounds for expungement. Such proof shall include the furnishing of all details pertaining to the finding of not guilty or release without conviction of such criminal charges. Where the finding or release is based on an order of a court, the applicant shall furnish a certified or xeroxed copy of the court order.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-030 INSPECTION BY THE SUBJECT OF ((~~HIS~~)) THEIR RECORD((~~S~~)). (1) Any person desiring to inspect criminal offender record information which refers to ((~~himself~~)) themself may do so at the central office of the Washington state identification section located at ((~~3330~~)) 3310 Capitol Boulevard, Tumwater, Washington, between the hours of 8 a.m. and 5 p.m., Monday through Friday, excepting legal holidays.

(2) Any person desiring to inspect criminal offender record information pertaining to ((~~himself~~)) themself shall first permit ((~~his~~)) their fingerprints to be taken by the section for identification purposes if requested to do so. The section in their discretion may accept other identification in lieu of fingerprints.

(3) A reasonable period of time, not to exceed 15 minutes, shall be allowed each individual to examine criminal offender record information pertaining to themselves.

(4) No person shall be allowed to retain or reproduce any criminal offender record information pertaining to themselves except for the purpose of challenge or correction of entries of arrests by submitting law enforcement agencies of the state of Washington. Visual examination only shall be permitted of such information unless the individual asserts ((~~his~~)) their belief that criminal offender record information from a submitting law enforcement agency of the state of Washington concerning ((~~him~~)) them is inaccurate, incomplete or maintained in violation of the law; and unless ((~~he~~)) they request((~~s~~)) correction or completion of the information on a form furnished by the section, or requests expungement pursuant to WAC 446-16-025.

(5) If any person who desires to examine criminal offender record information pertaining to ((~~himself~~)) themself is unable to read or is otherwise unable to examine same because of a physical disability, ((~~he~~)) they may designate another person of ((~~his~~)) their own choice to assist ((~~him~~)) them. The person about whom the information pertains shall execute, with ((~~his~~)) their mark, a form provided by the section consenting to the inspection of criminal offender record information pertaining to ((~~himself~~)) themself by another person for the purpose of it being read or otherwise described to ((~~him~~)) them. Such designated person shall then be permitted to read or otherwise describe or translate the criminal offender record information to the person about whom it pertains.

AMENDATORY SECTION (Amending Order 91-007, filed 11/1/91, effective 12/2/91)

WAC 446-16-080 REPORT TIME LIMITATIONS. All of the information requested on the disposition report shall be completed and the report mailed to the Washington State Identification Section, ((~~Mailstop: QE-02~~)) PO Box 42633, Olympia, Washington 98504-2633, within 10 days of the date that a disposition becomes effective.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-090 LAW ENFORCEMENT AGENCIES—REPORTING RESPONSIBILITIES. (1) If the disposition of criminal charges is made by the arresting agency, as where the individual is released without charge, the arresting agency shall fill in and complete the disposition report and mail same to the section. If the disposition is known at the time and arrest record or fingerprint card is submitted to the section, this information should be noted thereon. In this case, it shall be unnecessary to forward a a disposition report.

(2) In all cases where the arresting agency does not make the final disposition, it shall initiate the preparation of a disposition report by recording the name of the individual arrested, ((~~the designated fingerprints of the individual,~~)) the charges on which he was arrested, the name of the contributor of the arrest or fingerprint record, the arrest number and any other information that may identify the individual. At this stage the disposition of charges shall be left blank, but the agency shall note the action that it has taken, e.g., referred to the prosecutor, etc. The partially completed disposition report shall then be included as part of the individual's case file and shall be forwarded with other information concerning the charges against the individual to the prosecutor or other agency to which the arresting agency forwards the case.

## WSR 92-11-052
### PROPOSED RULES
### WASHINGTON STATE PATROL
[Filed May 19, 1992, 11:45 a.m.]

Original Notice.

Title of Rule: WAC 446-20-285 and 446-20-290, Processing of conviction records, fee required.

Purpose: The purpose is to establish a fee of $25.00 for fingerprint background checks.

Statutory Authority for Adoption: RCW 43.43.760, 43.43.815, and 43.43.838.

Summary: This bill will increase the cost to process a fingerprint card at the state level from $10.00 to $25.00.

Reasons Supporting Proposal: The increase in fee will cover the increase in processing costs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lieutenant Rick Phillips, Olympia, Washington, 753-6827.

Name of Proponent: Washington State Patrol, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The current WAC requires a fee of $10.00 for background checks regardless if the request is by name and date of birth or by fingerprints, but fingerprint checks are more labor intensive and require searches of the automated fingerprint identification system. A recent cost study found the direct and indirect costs of a fingerprint check to be $25.00. RCW 43.43.815(3), 43.43.838(2), and 43.43.760(3) require the patrol to recover direct and indirect costs of these checks.

Proposal Changes the Following Existing Rules: It establishes an increase in fee for processing fingerprint cards. E2SHS 2518 requires schools districts, educational service districts and schools to pay for the background checks which were previously done for no fee.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The current fee to process a fingerprint card is $10.00. That fee will increase to $25.00 per card.

Hearing Location: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, Olympia, Washington 98504-2607, on June 25, 1992, at 2:00 p.m.

Submit Written Comments to: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, P.O. Box 42607, Olympia, Washington 98504-2607, by June 25, 1992.

Date of Intended Adoption: June 30, 1992.

May 19, 1992
George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 91-004, filed 12/4/91, effective 1/4/92)

WAC 446-20-285 EMPLOYMENT—CONVICTION RECORDS—CHILD AND ADULT ABUSE INFORMATION. After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon the submission of a written request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

(1) Convictions of crimes against children or other persons as defined in RCW 43.43.830(6), and as amended by chapter 9A.44 RCW;

(2) Department of health disciplinary authority final decisions of specific findings of physical or sexual abuse or exploitation of a child and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary authority final decision; for the businesses and professions defined in chapter ((~~3, Laws of 1990~~)) 9A.44 RCW; and

(3) Civil adjudications of child abuse, as amended by chapter 9A.44 RCW.

This information will be furnished, consistent with the provisions of RCW 43.43.830 through 43.43.840, on an approved request for criminal history information form available from the Washington State Patrol, Identification and Criminal History Section, ((~~Mailstop QE-02~~)) PO Box 42633, Olympia, Washington, 98504-2633.

School districts, the superintendent of public instruction, educational service districts and their contractors will also receive conviction information under RCW 10.97.030 and 10.97.050 pursuant to chapter 159, Laws of 1992.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the request for criminal history information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification section, and shall contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in RCW 43.43.830 through 43.43.845.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the request for criminal history information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the identification section, the right thumb fingerprint impression will be used for identification verification purposes only. An exact name and date of birth match will be required

for dissemination of conviction information in the absence of a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed request for criminal history information form, if the conviction record, disciplinary authority final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol within fourteen working days of receipt of the request. Possession of such identification shall satisfy future ((~~background~~)) record check requirements for the applicant for a two-year period.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

AMENDATORY SECTION (Amending Order 91-004, filed 12/4/91, effective 1/4/92)

WAC 446-20-290 FEES. (1) A nonrefundable fee of ten dollars shall accompany each request for conviction records submitted for a name and date of birth background check at the state level pursuant to RCW 43.43.815 and 43.43.830 through 43.43.845, and chapter 10.97 RCW, unless through prior arrangement an account is authorized and established.

(a) A nonrefundable fee of twenty-five dollars shall accompany each request for a background check submitted with a fingerprint card at the state level.

(b) In addition to the state search and fees, an FBI search is required for requests submitted under chapter 159, Laws of 1992. Two fingerprint cards are required to be mailed to the Identification Section at PO Box 42633, Olympia, Washington, 98504-2633. In addition to the fee for the state search, appropriate FBI fees will be charged.

All fees are to be made payable to the "Washington state patrol," and are to be remitted only by cashier's check, money order or check written on a commercial business account. The Washington state patrol identification section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of these chapters are recovered.

(2) Pursuant to provisions of RCW 43.43.838 and chapter 159, Laws of 1992, no fees will be charged to a nonprofit organization, ((~~including school districts and educational service districts, for the request for conviction records~~)) or school districts and educational service districts for name and date of birth background checks.

The superintendent of public instruction, school districts, educational service districts and their contractors shall pay the appropriate fees for state and national fingerprint checks conducted under chapter 159, Laws of 1992.

AMENDATORY SECTION (Amending Order 88-03-A, filed 3/17/88)

WAC 446-20-300 PRIVACY—SECURITY. (1) All employers or prospective employers receiving conviction records pursuant to RCW 43.43.815, shall comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(2) Businesses or organizations, the state board of education, and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information, or a civil adjudication record pursuant to ((~~chapter 486, Laws of 1987~~)) RCW 43.43.815 and 43.43.830 through 43.43.845, shall comply with the provisions of WAC 446-20-220 (1) and (3) relating to privacy and security of the records.

(a) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this prohibition is subject to a civil action for damages.

(b) No employee of the state, employee of a business or organization, or the organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-420 MODEL AGREEMENT FOR RESEARCH, EVALUATIVE OR STATISTICAL PURPOSES.

AGREEMENT made this ..... day of ....., ((~~198-~~)) 199.., between ....., (hereinafter referred to as "RESEARCHER") and ....., (hereinafter referred to as "CRIMINAL JUSTICE AGENCY")*

WHEREAS the RESEARCHER had made a written request to the CRIMINAL JUSTICE AGENCY dated ....., a copy of which is annexed hereto and made a part hereof, and

WHEREAS the CRIMINAL JUSTICE AGENCY has reviewed said written request and determined that it clearly specifies (1) the criminal history record information sought, and (2) the research, evaluative or statistical purpose for which the said information is sought,** and

WHEREAS the RESEARCHER represents that (he) (she) (it) is in receipt of, and is familiar with, the provisions of chapter 10.97 RCW, 28 CFR Part 22, including provisions for sanctions at Parts 22.24(c) and 22.29 thereof,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The CRIMINAL JUSTICE AGENCY will supply the following items of information to the RESEARCHER:

(Describe in detail)***

.....
.....
.....
.....

2. The RESEARCHER will:

(a) Use the said information only for the research, evaluative, or statistical purposes described in the above mentioned written request dated ....., and for no other purpose;

(b) Limit access to said information to the RESEARCHER and those of the RESEARCHER'S employees whose responsibilities cannot be accomplished without such access, and who have been advised of, and agreed to comply with, the provisions of this agreement, and of 28 CFR Part 22;****

(c) Store all said information received pursuant to this agreement in secure, locked containers;

(d) So far as possible, replace the name and address of any record subject with an alpha-numeric or other appropriate code;

(e) Immediately notify the CRIMINAL JUSTICE AGENCY in writing of any proposed material changes in the purposes or objectives of its research, or in the manner in which said information will be used.

3. The RESEARCHER will not:

(a) Disclose any of the said information in a form which is identifiable to an individual, in any project report or in any manner whatsoever, except pursuant to 28 CFR Part 22.24 (b)(1)(2).

(b) Make copies of any of the said information, except as clearly necessary for use by employees or contractors to accomplish the purposes of the research. (To the extent reasonably possible, copies shall not be made of criminal history record information, but information derived therefrom which is not identifiable to specific individuals shall be used for research tasks. Where this is not possible, every reasonable effort shall be made to utilize coded identification data as an alternative to names when producing copies of criminal history record information for working purposes.)

(c) Utilize any of the said information for purposes or objectives or in a manner subject to the requirement for notice set forth in 2.(e) until specific written authorization therefor is received from the CRIMINAL JUSTICE AGENCY.

4. In the event the RESEARCHER deems it necessary, for the purposes of the research, to disclose said information to any subcontractor, (he) (she) (it) shall secure the written

agreement of said subcontractor to comply with all the terms of this agreement as if (he) (she) (it) were the RESEARCHER named herein.****

5. The RESEARCHER further agrees that:

(a) The CRIMINAL JUSTICE AGENCY shall have the right, at any time, to monitor, audit, and review the activities and policies of the RESEARCHER or its subcontractors in implementing this agreement in order to assure compliance therewith; and

(b) Upon completion, termination or suspension of the researcher, it will return all said information, and any copies thereof made by the RESEARCHER, to the CRIMINAL JUSTICE AGENCY, unless the CRIMINAL JUSTICE AGENCY gives its written consent to destruction, obliteration or other alternative disposition.

6. In the event the RESEARCHER fails to comply with any term of this Agreement the CRIMINAL JUSTICE AGENCY shall have the right to take such action as it deems appropriate, including termination of this Agreement. If the CRIMINAL JUSTICE AGENCY so terminates this Agreement, the RESEARCHER and any subcontractors shall forthwith return all the said information, and all copies made thereof, to the CRIMINAL JUSTICE AGENCY or make such alternative disposition thereof, as is directed by the CRIMINAL JUSTICE AGENCY. The exercise of remedies pursuant to this paragraph shall be in addition to all sanctions provided by law, and to legal remedies available to parties injured by disclosures.

7. INDEMNIFICATION. The RESEARCHER agrees to indemnify and hold harmless (CRIMINAL JUSTICE AGENCY) and its officers, agents and employees from and against any and all loss, damages, injury, liability suits and proceedings however caused, arising directly or indirectly out of any action or conduct of the (RESEARCHER) in the exercise or enjoyment of this agreement. Such indemnification shall include all costs of defending any such suit, including attorney fees.

IN WITNESS WHEREOF the parties have signed their names hereto this ..... day of ....., ((~~198..~~)) 199..

.....(CRIMINAL JUSTICE AGENCY)

by .....
(Name)

Title: .....

.....(RESEARCHERS)

by .....
(Name)

Title: .....

COMPLIANCE AGREEMENT of employee, consultant or subcontractor.

(I) (We), employee(s) of, consultant to, (and) (or) subcontractor of the RESEARCHER, acknowledge familiarity with the terms and conditions of the foregoing agreement between the CRIMINAL JUSTICE AGENCY and RESEARCHER, and agree to comply with the terms and conditions thereof in (my) (our) use and protection of the criminal history record information obtained pursuant to the foregoing agreement.

..... .....
(date) (signature)

..... .....
(date) (signature)

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-440 CONTRACT FOR SUPPORT SERVICES MODEL AGREEMENT UNDER WAC 446-20-180. (Some provisions may not be applicable in all cases and are noted accordingly.)

I. General Provisions

A. Parties: This agreement is made and entered into this ..... day of ....., ((~~198..~~)) 199.., by and between (____(head of agency)____), Administrator of (____(criminal justice agency)____) and (____(head of agency)____) of (Support Services Agency of "User").

B. Purpose of Agreement: This agreement authorizes (user) to collect, retrieve, maintain and/or disseminate criminal history record information (hereinafter, CHRI) pursuant to RCW 10.97.050(5), WAC 446-20-180, and the terms of this contract. In addition, it provides for the security and privacy of information in that dissemination to criminal justice agencies shall be limited for the purposes of the administration of justice and criminal justice agency employment. Dissemination to other individuals and agencies shall be limited to those individuals and agencies authorized by either the Washington state patrol, under chapter 10.97 RCW or local ordinance, as specified by the terms of this contract, and shall be limited to the purposes for which it was given and may not be disseminated further.

II. Duties of Criminal Justice Agency

A. In accordance with federal and state regulations, (criminal justice agency) agrees to furnish complete and accurate criminal history information to user, pursuant to RCW 10.97.040.

B. (Criminal justice agency) shall specify and approve those individuals or agencies authorized to obtain CHRI, which includes nonconviction data, pursuant to RCW 10.97.050(4) or by local ordinance.

III. Duties of User

A. (User) will collect, retrieve, maintain and/or disseminate all information covered by the terms of this agreement in strict compliance with all present and future federal and state laws and regulations. In addition, all programs, tapes, source documents, listings, and other developmental or related data processing information containing or permitting any person to gain access to CHRI and all personnel involved in the development, maintenance, or operation of an automated information system containing CHRI are subject to the requirements of RCW 10.97.050(5) and WAC 446-20-180.

B. (User) will obtain the assistance of the (criminal justice agency) to familiarize its personnel with and fully adhere to section 524(b) of the Crime Control Act 1973 (42 USC 3771(b)), 28 CFR Part 20, chapter 10.97 RCW and chapter 446-20 WAC, promulgated by the Washington state patrol.

C. (User) will disseminate CHRI only as authorized by chapter 10.97 RCW and as specified by (criminal justice agency) in this agreement.

D. (User) agrees to fully comply with all rules and regulations promulgated by the Washington state patrol, pursuant to RCW 10.97.090(2), regarding standards for the physical security, protection against unauthorized access and personnel procedures and safeguards.

E. (User) agrees to permit access to its records system for the purposes of an audit, as specified under RCW 10.97.090(3).

IV. Suspension of Service

(Criminal justice agency) reserves the right to immediately suspend furnishing information covered by the terms of this agreement to (User), when any terms of this agreement are violated. (Criminal justice agency) shall resume furnishing information

upon receipt of satisfactory assurances that such violations have been fully corrected or eliminated.

V. Cancellation

Either (criminal justice agency) or (user) may cancel this agreement upon thirty days notice to the other party.

VI. Indemnification

User hereby agrees to indemnify and hold harmless (criminal justice agency) and its officers, agents and employees from and against any and all loss, damages, injury, liability suits and proceedings however caused, arising directly or indirectly out of any action or conduct of the (user) in the exercise or enjoyment of this agreement. Such indemnification shall include all costs of defending any suit, including attorney fees.

VII. Construction

This agreement shall be liberally construed to apply to both manual and automated information systems wherever and whenever possible.

| (CRIMINAL JUSTICE AGENCY) | (USER) |
|---|---|
| By: ..... | By: ..... |
| Title: ..... | Title: ..... |
| Date: ..... | Date: ..... |

AMENDATORY SECTION (Amending Order 90-003, filed 9/20/90, effective 10/21/90)

WAC 446-20-520 PHOTOGRAPHS. Photographs should be of the polaroid type and in color. These are not to be file photos. A new photo is required.

On the reverse side of the photo, write full name, date of birth, and SID number. Paperclip (no staples please) the photo to the fingerprint card with the registration information completed and forward to Washington State Patrol, Identification and Criminal History Section, ((~~Mailstop QE-02~~)) PO Box 42633, Olympia, WA 98504-2633.

## WSR 92-11-053
### PROPOSED RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Filed May 19, 1992, 11:48 a.m.]

Original Notice.

Title of Rule: WAC 388-92-025 Financial responsibility of relatives.

Purpose: To ensure consistency between federal and state rules concerning the treatment of income and resources of spouses separated for any reason.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Ensures accuracy of eligibility decisions for spouses separated due to institutionalization or for any other reason.

Reasons Supporting Proposal: To ensure consistency between federal and state rules concerning the treatment of income and resources of spouses separated due to institutionalization or for any other reason.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, OBRA 1990 Section 4714(c).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on June 23, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, TELEFAX 664-0118 or SCAN 366-0118, by June 23, 1992.

Date of Intended Adoption: June 25, 1992.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2907, filed 12/1/89, effective 1/1/90)

WAC 388-92-025 FINANCIAL RESPONSIBILITY OF RELATIVES. (1) In determining SSI-related eligibility, the department shall consider income and resources jointly for:

(a) Spouses who reside in the same household; and

(b) The blind or disabled child or children who reside with their parent or parents.

(2) When computing available income ((~~for a family of three or more, the department shall apply the relative responsibility requirement of the appropriate cash assistance program.~~)) the department shall limit relative responsibility to one spouse for the other spouse and the parent or parents for the minor child or children.

(3) The department shall consider the financial responsibility of spouses as follows:

(a) When ((~~the~~)) a spouse in the same household of an SSI-related applicant is ineligible or does not apply, the department shall apply the exclusions under WAC ((~~388-92-035~~)) 388-92-036 (1) and (3) to the spouse's income in determining the amount to be deemed to the applicant. ((~~If~~)) When the remaining income of the ineligible spouse exceeds the monthly ((~~state supplement benefit standard~~)) categorically needy income level (CNIL), the department shall deem the remaining income to the applicant; ((~~and~~))

(b) ((~~If~~)) When both spouses apply or are eligible as aged, blind, or disabled and cease to reside in the same household, the department shall consider the spouses' income and resources available to each other ((~~for the time periods specified. After the appropriate time period, the department shall consider available only the income and resources one spouse contributes to the other spouse. (i) If~~)) through the month in which they cease to reside in the same household;

(c) When spouses cease to reside in the same household because of the institutionalization of one spouse or for any other reason, the department shall consider:

((~~(A)~~)) (i) The institutionalized spouse's income and resources under chapter 388-95 WAC; and

((~~(B)~~)) (ii) The community spouse's((~~:~~

~~(I)~~)) income and resources as available to each other through the month in which they cease to reside in the same household. The department shall consider the income and resources of each spouse as separate beginning the first of the month after the ((~~spouse is institutionalized;~~

~~(II) Resources as available to each other for the month the spouses cease to reside in the same household and for six months following that month.~~

~~(ii) If spouses cease to reside in the same household for any reason other than institutionalization of one spouse, the department shall consider the spouses' income and resources available to each other for the month the spouses cease to reside in the same household and for six months following that month~~)) spouses separate.

(d) If the mutual consideration of both spouses' income and resources causes the spouses to lose eligibility as a couple, the department shall determine if either spouse is eligible in accordance with subsection (3)(c) of this section((:

~~(c) If the spouses cease to reside in the same household, and only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple,~~));

(e) The department shall consider only the income and resources the ineligible spouse contributes to the eligible spouse beginning the month after the spouses separate;

((~~(d)~~)) (f) When both spouses are eligible and institutionalized, the department shall consider income and resources separately even if the spouses share the same room; and

((~~(e)~~)) (g) When only one spouse is eligible and both are institutionalized, the department shall consider only the income and resources the ineligible spouse contributes to the eligible spouse, even if they share the same room.

(((~~(4) The department shall consider the financial responsibility of the parent or parents as follows:~~

~~(a) For SSI-related individuals, eighteen to twenty-one years of age, the department shall not consider the parent or parents' income available unless contributed; and~~

~~(b) For SSI-related individuals seventeen years of age and under, the department shall consider the parent or parents' income available when the individual resides in the same household.~~

~~(5) The department shall determine income for FIP or AFDC-related assistance unit according to FIP or AFDC grant regulations, where more than one assistance unit exists, limiting relative responsibility to subsection (2) of this section.~~))

## WSR 92-11-054
### PROPOSED RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Filed May 19, 1992, 11:51 a.m.]

Original Notice.

Title of Rule: WAC 388-83-036 Monthly maintenance standard—Client not in own home.

Purpose: Clarification of existing language to ensure the department determines the cost standard correctly for CCF, adult family home, adult residential treatment facility and group home clients.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Ensure that the department determines appropriate cost standard for CCF, adult family home, adult residential treatment facilities, and group home clients.

Reasons Supporting Proposal: To clarify existing language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on June 23, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, TELEFAX 664-0118 or SCAN 366-0118, by June 23, 1992.

Date of Intended Adoption: June 25, 1992.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2672, filed 8/17/88)

WAC 388-83-036 MONTHLY MAINTENANCE STANDARD—CLIENT NOT IN OWN HOME. (1) The monthly standard for a SSI/SSP related client or ((~~GA-U~~)) general assistance recipient living in a CCF, adult family home, adult residential treatment facility (ARTF), adult residential rehabilitation center (ARRC), or DDD group home shall be the department cost standard of the facility plus a specified CPI.

(2) See either WAC 388-15-555, 388-15-568, 38829-130, or 388-29-280 for the definitions of "department cost standard". This monthly standard shall not exceed three hundred percent of the current SSI federal benefit level.

(((~~(2) The AFDC or FIP recipient receiving intensive (thirty days or less) alcohol treatment may be granted GA-U funds within the maximum which are paid to the facility for the cost of care.~~))

(3) See chapter 388-92 WAC for computation of available income and resources for ((~~the~~)) SSI((~~/SSP~~)) related person ((~~with income, all earned and unearned exemptions allowed by SSI may be retained for personal needs~~)).

(4) See chapter 388-28 WAC for computation of available income and resources for the ((~~GA-U~~)) general assistance client ((~~is subject to GA-U income and resource standards.~~

~~(4) If income available to the client is less than the CPI standard, the department shall authorize a state payment to the client to meet his or her personal needs.~~

~~(5) The department shall make payment to the facility for the difference between income available for payment on care and the cost standard of the facility~~)).

## WSR 92-11-055
### PERMANENT RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Institutions)

[Order 3391—Filed May 19, 1992, 11:53 a.m.]

Date of Adoption: May 19, 1992.

Purpose: The three amendments and one new rule implement the provisions of SHB 1915 which is designed to add employment services to the existing service provided by mental health programs within the state to persons with mental illness.

Citation of Existing Rules Affected by this Order: Amending WAC 275-56-005 Purpose and authority; 275-56-015 Definitions; and 275-56-088 Regional support networks—Community support services.

Statutory Authority for Adoption: RCW 71.24.035, 71.24.045, and 71.24.300.

Pursuant to notice filed as WSR 92-07-033 on March 10, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2935, filed 1/24/90, effective 1/25/90)

WAC 275-56-005 PURPOSE AND AUTHORITY. The purpose of chapter 275-56 WAC is to establish a county-managed community mental health program to help people experiencing mental illness retain or gain respected and productive positions in their community. This chapter establishes rules and regulations for county and regional support network administration of community mental health programs, licensing service providers, information, accountability, contracts and services. Chapter 275-56 WAC is adopted under chapter 71.24 RCW.

(1) Chapter 275-56 WAC enables participation in the community mental health system by service providers which are profit or nonprofit businesses, private or public businesses, individuals or partnerships, as well as corporations. A provider may contract with a county or regional support network (RSN) for one or more services defined by chapter 71.24 RCW.

(2) The rules and regulations for county duties are specified in two areas:

(a) County planning under WAC 275-56-020, 275-56-025, 275-56-040, 275-56-050, 275-56-055, and 275-56-060; and

(b) County fiscal requirements under WAC 275-56-065 through 275-56-085.

(3) Compliance with the rules and regulations for RSN duties shall be phased in according to the RSN contract (WAC 275-56-042). These rules and regulations are specified in two areas:

(a) RSN development and planning (WAC 275-56-016, 275-56-017, 275-56-035, 275-56-042, 275-56-043, 275-56-050, 275-56-055, 275-56-060, 275-56-087, 275-56-088, and 275-56-089); and

(b) RSN fiscal requirements (WAC 275-56-065 through 275-56-085).

(4) Minimum standards for licensing service providers are specified in four areas:

(a) Licensing procedures under WAC 275-56-090 through 275-56-105;

(b) Organizational administration for the provider under WAC 275-56-110 through 275-56-215, as follows:

(i) Administration;

(ii) Provider fiscal administration;

(iii) Personnel management;

(iv) Quality assurance;

(v) Program evaluation; and

(vi) Facilities((;)).

(c) Services administration under WAC 275-56-220 through 275-56-340, as follows:

(i) Accessibility and awareness of services;

(ii) Consumer rights;

(iii) Consumer entry, service planning, and service operations; and

(iv) Consumer records((;)).

(d) Services under WAC 275-56-355 through 275-56-515:

(i) Emergency services, including preadmission screening services;

(ii) Outpatient services;

(iii) Day treatment services;

(iv) Consultation and education services;

(v) Community support services; ((~~and~~))

(vi) Residential services; and

(vii) Employment services.

AMENDATORY SECTION (Amending Order 2935, filed 1/24/90, effective 1/25/90)

WAC 275-56-015 DEFINITIONS. For the purposes of the rules, regulations, and standards of chapter 275-56 WAC, the following words and phrases shall have the following meaning:

(1) "Acutely mentally ill" means a condition limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in this chapter;

(b) Being gravely disabled as defined in this chapter; or

(c) Presenting a likelihood of serious harm as defined in this chapter.

(2) "Authority" means the board of county commissioners, county council, county executive, or RSN entity having the authority to establish a community mental health program.

(3) "Available resources" means funds appropriated by the legislature during any biennium for the purpose of providing community mental health programs. When RSNs are established or after July 1, 1995, "available resources" means:

(a) Federal funds, except those provided according to Title XIX of the Social Security Act; and

(b) State funds appropriated under this chapter or chapter 71.05 RCW by the legislature during a biennium to provide mental health services.

(4) "Case management" means assistance to the consumer and family or significant others to obtain, maintain, or develop appropriate resources for the consumer. This involves obtaining or providing the full range of needed services to help consumers establish and maintain respected positions in the community, including:

(a) Housing;

(b) Income;

(c) Employment and other meaningful activities;

(d) Monitoring and interventions; and

(e) Crisis intervention and resolution.

(5) "Child" or "children" means a person or persons seventeen years of age and younger.

(6) "Chronically mentally ill" means a child or adult having a mental disorder, in the case of a child as defined by chapter 71.34 RCW, and meeting at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years((~~, or~~));

(b) In the case of a child, has been placed by the department or its designee two or more times outside of the home, where the placements:

(i) Are due to a mental disorder (as defined in chapter 71.34 RCW); and ((~~where the placements~~))

(ii) Progress toward a more restrictive setting. Placements by the department shall include but ((~~are~~)) not be limited to placements by child protective services and child welfare services;

(((~~b~~))) (c) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding year;

(((~~c~~))) (d) Has been unable to engage in substantial gainful activity (subsection (((~~47~~))) (50) of this section) by reason of any mental disorder lasting for a continuous period of not less than twelve months; or

(((~~d~~))) (e) In the case of a child, has been subjected to continual distress as indicated by repeated physical or sexual abuse or neglect.

(7) "Clinical staff member" means a regularly employed or contracted staff member or supervisor engaged in providing direct evaluative, diagnostic, or therapeutic services to consumers. The term does not include volunteers or students.

(8) "Community mental health program" means the total mental health program established by a county or group of counties acting in combination for the purpose of providing mental health services in accordance with the Community Mental Health Services Act, chapter 71.24 RCW. After July 1, 1995, or when RSNs are established, "community mental health program" means all activities or programs using available resources, under subsection (3) of this section.

(9) "Community Mental Health Services Act" means chapter 71.24 RCW.

(10) "Community support services" means:

(a) For non-RSN counties before July 1, 1995, services for priority population consumers including:

(i) Discharge planning for consumers leaving:

(A) State hospitals and other acute care inpatient facilities;

(B) Inpatient psychiatric facilities for consumers twenty years of age or younger; and

(C) Children's mental health residential treatment facilities((;)).

(ii) Contacts with consumers, families, schools, or significant others to provide for an effective program of community maintenance; and

(iii) Medication monitoring.

(b) After July 1, 1995, or when RSNs are established, for adult and children priority populations under WAC 275-56-010 (1)(b), services authorized, planned, and coordinated through resource management services include:

(i) Assessment and diagnosis;

(ii) Emergency crisis intervention available twenty-four hours a day, seven days a week;

(iii) Prescreening determinations for mentally ill consumers considered for placement in nursing homes as required by federal law;

(iv) Screening for consumers considered for admission to residential services;

(v) Investigation, legal, and other nonresidential services (chapter 71.05 RCW);

(vi) Case management services;

(vii) Psychiatric treatment, including medication supervision;

(viii) Counseling;

(ix) Psychotherapy;

(x) Assured transfer of relevant patient information among service providers;

(xi) Maintenance of the mental health information system for priority populations; and

(xii) Other services required by priority populations as determined by RSNs.

(11) "Consumers" means persons, couples or families receiving clinical, coordinative, or support services.

(12) "Consultation" means review and recommendations regarding the job responsibilities, activities or decisions of administrative, clinical or clerical staff, contracted employees, volunteers or students by persons with appropriate knowledge and experience to make recommendations. This definition does not constitute a definition of consultation and education.

(13) "Consultation and education services" means those services provided to assist others in the community in understanding and caring for priority populations including:

(a) Consultation to other community providers; and

(b) Educational and public information services.

(14) "Crisis" means a situation where a person is acutely mentally ill or experiencing serious disruption in cognitive, volitional, psychosocial or neurophysiological functioning.

(15) "Crisis respite services" means residential support services provided to an individual who is in crisis or at risk of crisis; such services may be provided, in their own home or another home-like setting.

(16) "Crisis response system" means the system designed to resolve crises in the least restrictive manner possible, including:

(a) Emergency services;

(b) Crisis intervention;

(c) Crisis respite;

(d) Investigation and detention services; and

(e) Evaluation and treatment services.

(17) "Day treatment services" means services for mentally ill consumers, including training in basic living and social skills, supported work, vocational rehabilitation activities, and may include therapeutic treatment.

(18) "Department" means the department of social and health services.

(19) "Direct treatment services" means clinical services provided directly to consumers meeting the consumer's mental health needs, as distinct from activities conducted with other persons, organizations, or groups on behalf of consumers, and also as distinct from supervisory, consultative, or training activities conducted with regard to consumers or services.

(20) "Disabled" means an individual with a developmental disability, or a serious physical or sensory impairment.

(21) "Elderly" means a person sixty years of age or older.

(22) "Emergency services" means those responses and intervention services provided to consumers experiencing mental health emergencies or crises, including:

(a) Twenty-four-hour telephone service; and

(b) Twenty-four-hour crisis intervention and outreach services.

(23) "Employment services" means supported employment, transitional work, placement in competitive employment, and other work-related services that result in persons with a mental illness becoming engaged in meaningful and gainful full-time or part-time work.

(24) "Geriatric long-term rehabilitative services" means long-term rehabilitative services (subsection ((~~(30)~~)) (32) of this section) for individuals ((~~age~~)) fifty-five years of age and over, or fifty-four years of age and under who, because of psychoneurological impairments, are appropriate for this level of care.

((~~(24)~~)) (25) "Governing body" means the final decision-making body for a provider.

((~~(25)~~)) (26) "Gravely disabled" means a condition where a person, as a result of a mental disorder:

(a) Is in danger of serious physical harm resulting from a failure to provide for ((~~their~~)) such persons's essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning:

(i) Evidenced by repeated and escalating loss of cognition or volitional control over ((~~their~~)) such person's actions; and

(ii) Is not receiving such care as is essential for ((~~their~~)) such person's health or safety.

((~~(26)~~)) (27) "Individualized service plan" (ISP) means the plan developed by resource management services assuring continuity of a person's care and identifying needed residential and community support services.

((~~(27)~~)) (28) "Individualized treatment plan" (ITP) means the plan developed by the service provider identifying a person's treatment needs and methods of treatment and, in RSNs, is consistent with the ISP.

((~~(28)~~)) (29) "Integrated work setting" means that all work is done in settings which offer regular contact with nondisabled co-workers and includes social interaction and integration at the work site.

(30) "Less restrictive setting" means that service in which the consumer functions at maximum independence in the most normative environment possible.

((~~(29)~~)) (31) "Long-term adaptive services" means a facility-based residential program with twenty-four-hour nursing care and medical supervision, and mental health services which include:

(a) Program and case consultation from a mental health professional;

(b) Individualized treatment, as appropriate; and

(c) Staff training.

((~~(30)~~)) (32) "Long-term rehabilitative services" means a facility-based residential program for adults or children who:

(a) Require twenty-four-hour supervision;

(b) Do not require extensive medical care; and

(c) Have a severe functional or behavioral impairment as a result of a psychiatric disorder; or

(d) Do not follow or do not have an effective medication regime.

((~~(31)~~)) (33) "Material adjustment" means a budget revision equaling ten percent of a cost center.

((~~(32)~~)) (34) "Mental disorder" means organic, mental, or emotional impairment having substantial adverse effect on an individual's cognitive or volitional functions.

((~~(33)~~)) (35) "Mental health professional" means:

(a) A physician or osteopath licensed under chapter 18.57 or 18.71 RCW, who is board eligible in psychiatry;

(b) A psychologist licensed under chapter 18.83 RCW;

(c) A psychiatric nurse, which means a registered nurse licensed under chapter 18.88 RCW and having at least two years' experience in the direct treatment of mentally ill individuals under the supervision of a mental health professional;

(d) A social worker, which means a person with a masters or further advanced degree from an accredited school of social work or a degree from a graduate school deemed equivalent by the secretary;

(e) A person having at least a masters degree in behavioral sciences, nursing sciences, or related field from an accredited college or university and having at least two years' experience in the direct treatment of mentally ill individuals under the supervision of a mental health professional;

(f) A mental health counselor or marriage and family therapist certified under chapter 18.19 RCW and having at least two years' experience in the direct treatment of mentally ill individuals under the supervision of a mental health professional;

(g) A professionally licensed occupational or physical therapist having at least two years' experience in the direct treatment of mentally ill individuals under the supervision of a mental health professional; or

(h) A person having at least a bachelors degree in behavioral sciences or related field from an accredited college or university and having at least five years' experience in the direct treatment of mentally ill individuals under the supervision of a mental health professional.

((~~(34)~~)) (36) "Mental health services" means services required under chapter 71.24 RCW, including:

(a) In non-RSN counties:

(i) Emergency services, including screening for patients being considered for admission to state hospitals;

(ii) Outpatient services;

(iii) Day treatment;

(iv) Consultation and education services; and

(v) Community support services.

(b) When RSNs are established, or after July 1, 1995, "mental health services" shall mean all services provided by RSNs.

((~~(35)~~)) (37) "Mentally ill persons" and "the mentally ill" means a person or condition defined in this chapter as:

(a) Acutely mentally ill;

(b) Chronically mentally ill; or

(c) Seriously disturbed.

((~~(36)~~)) (38) "Minority" or "ethnic minority" means any of the following general population groups:

(a) American Indian or Alaskan native, which includes:

(i) An enrolled Indian:

(A) A person enrolled or eligible for enrollment in a recognized tribe((:)); or

(B) A person determined eligible to be found Indian by the secretary of the interior((:)); or

(C) An Eskimo, Aleut or other Alaskan native.

(ii) A Canadian Indian: A person being a member of a treaty tribe, Metis community or nonstatus Indian community, from Canada((:)); and

(iii) An unenrolled Indian: A person considered Indian by a federally or nonfederally recognized Indian tribe or an off-reservation Indian/Alaskan native community organization((;)).

(b) Asian or Pacific Islander;

(c) Black; or

(d) Hispanic.

((~~(37)~~)) (39) "Outpatient services" means those services provided to priority populations needing less intensive treatment than that provided through inpatient, residential, or day treatment programs. Services shall include, but are not limited to:

(a) Evaluation;

(b) Individual, family, and group psychotherapy; and

(c) Medication management.

((~~(38)~~)) (40) "Preadmission screening services" means those services provided for consumers being considered for voluntary admission to state hospitals to determine the appropriateness of admission and availability of alternatives.

((~~(39)~~)) (41) "Pre-vocational services" means activities which are oriented toward job or career exploration and training that is designed to lead toward integrated, competitive employment; transitional employment; supported employment; or volunteer vocational experience.

(42) "Properly executed accounting documents" means accounting documents processed in a manner consistent with provider policies and procedures and providing sufficient and adequate documentation for an audit of the agency's financial transactions.

((~~(40)~~)) (43) "Provider" means licensed service provider as defined in chapter 71.24 RCW.

((~~(41)~~)) (44) "Regional support network" (RSN) means a county authority or group of county authorities recognized by the secretary that enter into joint operating agreements to contract with the secretary under this chapter.

((~~(42)~~)) (45) "Registration records" means all the records of the department, RSN, treatment facilities, and other persons providing services to the department, county departments, or facilities. Registration records identify individuals receiving or having received services for mental illness which have been funded by available resources.

((~~(43)~~)) (46) "Residential services" means a complete range of residences and supports authorized by resource management services. These may involve a facility, a distinct part thereof or services supporting community living, including, at least:

(a) Evaluation and treatment services as defined in chapter 71.05 RCW;

(b) Crisis respite care;

(c) Supported living services;

(d) Supervised care;

(e) Long-term rehabilitative care;

(f) Long-term adaptive care; and

(g) Support services to nursing home residents.

((~~(44)~~)) (47) "Resource management services" means the planning, coordination, and authorization of residential and community support services administered under an ISP for priority populations, including:

(a) Seven-day-a-week, twenty-four-hour-a-day availability of information regarding mentally ill adults' and children's enrollment in services; and

(b) Access to their ISP by county-designated mental health professionals, evaluation and treatment facilities, and others as determined by the RSN.

((~~(45)~~)) (48) "Secretary" means the secretary of the department of social and health services.

((~~(46)~~)) (49) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to self or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder causing major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a minor child diagnosed by a mental health professional as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school, or with peers or is clearly interfering with the child's personality development and learning.

((~~(47)~~)) (50) "Substantial gainful activity" is work involving significant physical or mental activities done for pay or profit. Substantial gainful activity means, for elderly, retired persons and disabled persons, due to physical or mental impairment, the ability to manage retirement and/or disability income and activities of daily living. Substantial gainful activity means, for children, the ability to productively participate in educational activities.

((~~(48)~~)) (51) "Supervised living services" means facility-based care for adults requiring twenty-four-hour supervision but are able to use community-based resources outside of the facility when needed. Supervised living services provide minimal-to-moderate on-site programming primarily directed at maintaining consumers at this level of care or preparing consumers for transition into supported living services.

((~~(49)~~)) (52) "Supervision" means regular or occasional monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

((~~(50)~~)) (53) "Supported employment" is competitive employment in an integrated work setting with ongoing support services for individuals with mental illness, for whom competitive employment has not traditionally occurred or which has been interrupted.

(54) "Supported living services" means nonfacility residential programs for adults and children requiring a

flexible array of services and supports to successfully live in their homes, adult family homes, or foster homes.

((~~(51)~~)) (55) "Training" means planned educational events or activities designed to instill or enhance skills and to increase knowledge.

((~~(52)~~)) (56) "Transitional employment" means competitive work in an integrated setting for individuals with mental illness who may need support services (but not necessarily job skill training services), provided either at the work site or away from the work site. The job placement may not necessarily be a permanent employment outcome for the individual.

(57) "Treatment records" means registration and all other records concerning consumers receiving or at any time having received services for mental illness, which are maintained by the department, RSNs, and service providers. Treatment records do not include notes or records maintained for personal use by RSN or treatment facility staff providing treatment services if the notes or records are unavailable to others.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 2935, filed 1/24/90, effective 1/25/90)

WAC 275-56-088 REGIONAL SUPPORT NETWORKS—COMMUNITY SUPPORT SERVICES. After July 1, 1995, or when RSNs are established, for adults and children priority populations (WAC 275-56-010 (1)(b)), community support services shall include:

(1) Assessment and diagnosis (WAC 275-56-260);

(2) Emergency crisis intervention available twenty-four hours a day, seven days a week (WAC 275-56-355);

(3) Prescreening determinations for mentally ill consumers being considered for placement in nursing homes as required by federal law and department issuances;

(4) Screening for consumers being considered for admission to residential services;

(5) Discharge planning for consumers leaving state mental hospitals, other acute care inpatient facilities, and other children's mental health residential treatment facilities (WAC 275-56-445);

(6) Investigation, legal, and other nonresidential services (chapter 71.05 RCW);

(7) Case management services (WAC 275-56-445);

(8) Employment Services;

(9) Psychiatric treatment, including medication supervision (WAC 275-56-295);

((~~(9)~~)) (10) Counseling (WAC 275-56-385);

((~~(10)~~)) (11) Psychotherapy (WAC 275-56-385);

((~~(11)~~)) (12) Assuring transfer of relevant patient information between service providers (WAC 275-56-240);

((~~(12)~~)) (13) Participation in the state mental health information systems for priority populations (WAC 275-56-055); and

((~~(13)~~)) (14) Other services required by priority populations as determined by RSNs, including day treatment services (WAC 275-56-400).

NEW SECTION

WAC 275-56-447 EMPLOYMENT SERVICES. (1) The county or RSN when established shall ensure that the following employment services, which help consumers achieve their own goals toward integrated and competitive work, shall be provided:

(a) Assessment of the consumers' work history, skills, training, education, and personal career goals;

(b) Provision of information, experience, and assistance to help the consumers make sound vocational decisions;

(c) Active involvement with consumers served in establishing individualized job and career development plans and revision of the individual treatment plan (ITP) accordingly;

(d) Assistance to consumers in locating employment opportunities consistent with consumer skills, goals, and interests;

(e) Active support of the consumers on an ongoing basis at their employment setting which shall include outreach and support services to individuals at their place of employment, if required, as well as the use of other interventions such as job coaching; and

(f) Interaction with the consumers' employer to maintain stability of employment and to assure reasonable accommodation is made in accordance with the Americans with Disabilities Act (ADA) of 1990.

(2) When the county or RSN contracts with more than one agency to provide services as described under subsection (1)(a) through (f) of this section, the county or RSN shall have a written plan of inter-agency collaboration and information sharing to ensure consistent and timely case movement.

(3) The county or RSN shall provide employment services, as described under section (1) of this section, in accordance with:

(a) Provision or ensured access to recent information about how employment may affect the benefits of persons served, such as Social Security Income (SSI) and Social Security Disability Insurance (SSDI);

(b) Maintenance and provision of data as requested by the department or RSN, which reflects the scope and effectiveness of the employment or prevocational services program;

(c) That compensation for persons placed in employment in accordance with the "Fair Labor Standards Act of 1938" (29 U.S.C. 214);

(d) When the provider offers employment or pre-vocational work experiences, an indigenous written safety program and the safety program shall be in place and in full compliance with WAC 296-24-060 relative to first aid training and certification; and

(e) Staff providing pre-vocational or employment services shall receive basic orientation training relative to vocational assessment, placement, and concepts of supported employment within three months of employment.

(4) To be licensed as a provider of employment services, an agency shall:

(a) Provide all services listed under subsections (1) and (2) of this section; and

(b) Serve persons and coordinate efforts with rehabilitation and employment services, such as the division of vocational rehabilitation, the state employment services, and the business community and job placement services within the community.

## WSR 92-11-056
PERMANENT RULES
## DEPARTMENT OF SOCIAL AND HEALTH SERVICES
**(Public Assistance)**
[Order 3388—Filed May 19, 1992, 11:55 a.m.]

Date of Adoption: May 19, 1992.

Purpose: Clarifies and expands "relative of specified degree" definition. This new WAC clarifies that relationships up to the fifth degree of kinship to the child are considered relatives of specified degree. This means the definition includes great-great-great grandparents, as well as first cousins once removed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-24-125 Eligibility conditions applicable to AFDC—Living with a relative of specified degree.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 92-08-005 on March 19, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2731, filed 11/30/88)

WAC 388-24-125 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—LIVING WITH A RELATIVE OF SPECIFIED DEGREE. (1) To be eligible for AFDC, a dependent child shall be living with a relative of specified degree.

(2) The department defines a relative of specified degree as:

(a) The natural mother;

(b) The natural father if:

(i) He was married to the natural mother when the child was born; or

(ii) The child was born within three hundred days of a termination of marriage; or

(iii) He attempted to marry the natural mother before the child's birth and the child is born within three hundred days after the termination of cohabitation; or

(iv) He receives the child into his home and openly holds out the child as his child; or

(v) He acknowledges paternity in writing and the natural mother does not dispute the acknowledgment; or

(vi) He and the child's natural mother have married or attempted to marry after the child's birth((;)) and:

(A) He acknowledges paternity, filed with the registrar of vital statistics; or

(B) With his consent, he is named as the father on the child's birth certificate; or

(C) He is obligated to pay child support by written voluntary promise or by court order.

(c) A person who legally adopts a child;

(d) Blood relatives (including those of half-blood); brother, sister, uncle, aunt, grandparent, great-grandparent, first cousin, first cousin once removed, nephew, ((or)) niece((. ~~Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition~~)), great-great-grandparent, great-uncle, great-aunt, great-great-uncle, great-great-aunt, or great-great-great-grandparent;

(e) A stepfather, stepmother, stepbrother, and stepsister;

(f) A spouse of a person named in this section is within the scope of this provision, although the marriage is terminated by death or divorce; and

(g) A person identified in a court judgment or order as the child's relative as specified in subsection (2)(a) through (f) of this section.

(3) The department shall determine a child is living with a relative of specified degree when:

(a) The specified relative has assumed parental responsibility for the care, guidance, and control of the child; and

(b) A family setting is maintained or is in the process of being established for the benefit of the family group. A family setting shall include households in temporary shelter and households without shelter; and

(c) Eligibility exists even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting, as long as the relative exercises responsibility for the care and control of the child. Such temporary separations include:

(i) Temporary care in a hospital or public or private institution when the illness is such that the department expects a return to the family within ninety days. If the temporary care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-125;

(ii) Temporary care in an alcohol or drug treatment facility when the department expects a return to the family within ninety days. If the care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-130;

(iii) Attendance of a child in school as follows:

(A) The relative retains full responsibility for the child and the child returns during a year's period, at least for summer vacation; and

(B) The need for specialized education or training is not available in the child's home community, and the education is recommended by local school authorities; or

(C) Isolation of the child's residence makes it necessary for ((~~him or her~~)) such child to be away from the relative to attend school; or

(D) The child is enrolled in an Indian boarding school administered through the Bureau of Indian Affairs.

(iv) Visits in which the person plans to be away for ninety days or less, including visits of a child to a parent residing away from the child's customary family setting.

If the responsible relative or child leaves for more than ninety days, eligibility ((~~is~~)) shall be redetermined in accordance with the new circumstances;

(v) Attendance of a responsible relative in a department-approved vocational training program. Absence is considered temporary for the period of time required to complete the training program (see WAC 388-57-028); and

(vi) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

(d) The child is a ward of the juvenile court, or other agency to whom the court has delegated authority, and if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control, and supervision of the child;

(e) The child is in foster care((;)) and:

(i) The caretaker relative applies and is otherwise eligible;

(ii) The child is returned to the relative's care before the end of the thirty-day assistance period; and

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in the same thirty-day period.

## WSR 92-11-057
### PERMANENT RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Order 3389—Filed May 19, 1992, 12:00 noon]

Date of Adoption: May 19, 1992.

Purpose: To increase the level of amount for a family or person to be eligible for certain medical programs. This increase is based on the 1992 federal poverty level.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing; 388-82-160 Hospital premium insurance enrollment for the working disabled; 388-83-032 Pregnant women; and 388-83-033 Children—Eligible to eighteen years of age.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 42 CFR 124.505(b).

Pursuant to notice filed as WSR 92-08-080 on March 31, 1992.

Changes Other than Editing from Proposed to Adopted Version: Subsection (1)(a) of WAC 388-83-033 reads: Effective January 1, 1992, a child born on or before September 30, 1983, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income is equal to or less that the AFDC income standards.

The principal reasons for adopting the changes are as follows: The state plan is changed to delete resources as an eligibility criteria for this group of children. This WAC is amended to reflect this change.

This change allows children in this group to be eligible for a federal medical program. These same children were eligible for the same medical services under subsection (3) of this section. The state plan change is retroactively effective January 1, 1992. Therefore, this was the earliest opportunity to make this change.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3150, filed 3/11/91, effective 4/11/91)

WAC 388-82-140 QUALIFIED MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICARE COST SHARING. (1) The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

(a) Meeting the general nonfinancial requirements under chapter 388-83 WAC;

(b) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act;

(c) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits ((~~under chapter 388-92 WAC~~)); and

(d) Having a total countable ((~~family~~)) income, as determined under chapter 388-92 WAC, except as specified in subsection (2) of this section, not exceeding one-hundred percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. Effective ((~~April 1, 1991~~)) April 1, 1992, one-hundred percent of the ((~~1991~~)) current federal poverty income guidelines is:

| | Family Size | Monthly |
|---|---|---|
| (i) | One | $ ((~~552~~)) 568 |
| (ii) | Two | ((~~740~~)) 766 |
| ((~~(iii)~~ | ~~Three~~ | ~~928~~ |
| ~~(iv)~~ | ~~Four~~ | ~~1,117~~ |
| ~~(v)~~ | ~~Five~~ | ~~1,305~~ |
| ~~(vi)~~ | ~~Six~~ | ~~1,493~~ |
| ~~(vii)~~ | ~~Seven~~ | ~~1,682~~ |
| ~~(viii)~~ | ~~Eight~~ | ~~1,870~~ |

~~(ix) For family units with more than eight members, add $188 to the monthly income for each additional member.~~))

(2) Effective January 1, 1991, for applicants and recipients, the department shall not consider Social Security cost of living allowance increase until April 1, of each year.

AMENDATORY SECTION (Amending Order 3180, filed 8/23/90 [5/21/91], effective 9/23/90 [6/21/91])

WAC 388-82-160 HOSPITAL PREMIUM INSURANCE ENROLLMENT FOR THE WORKING DISABLED. The department shall pay premiums for Medicare Part A for an individual:

(1) Who is not otherwise entitled for medical assistance;

(2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act;

(3) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC for an individual or a couple (individual with a spouse); and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding two hundred percent of the current federal poverty income guidelines as published and updated by the secretary of health and human services. Two hundred percent of the ((~~1991~~)) current poverty income guidelines is:

| | Family Size | Monthly |
|---|---|---|
| (a) | One | $((~~1,104.00~~)) 1,135.00 |
| (b) | Two | ((~~1,480.00~~)) 1,532.00 |

((~~(c) For family units with three members or more, add $376.00 to the monthly income for each additional member.~~))

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 3174, filed 5/1/91, effective 6/1/91)

WAC 388-83-032 PREGNANT WOMEN. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy, if the pregnant woman meets:

(a) The income requirements of this section; and

(b) Citizenship, Social Security number, and residence requirements under chapter 388-83 WAC.

(2) If a pregnant woman applies on or before the last day of pregnancy, the department shall find her eligible for continued Medicaid coverage through the end of the month containing the sixtieth day from the day pregnancy ends.

(3) Income eligibility:

(a) Total family income shall not exceed one hundred eighty-five percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. Effective ((~~April 1, 1991~~)) April 1, 1992, one hundred eighty-five percent of the ((~~1991~~)) current federal poverty income guidelines is:

| | Family Size | Monthly |
|---|---|---|
| (i) | One | $((~~1,021~~)) 1,050 |
| (ii) | Two | (($~~1,369~~)) 1,417 |
| (iii) | Three | (($~~1,717~~)) 1,784 |
| (iv) | Four | (($~~2,066~~)) 2,151 |
| (v) | Five | (($~~2,414~~)) 2,518 |
| (vi) | Six | (($~~2,762~~)) 2,885 |
| (vii) | Seven | (($~~3,112~~)) 3,252 |
| (viii) | Eight | (($~~3,460~~)) 3,619 |

(ix) For family units with nine members or more, add $((~~348~~)) 367 to the monthly income for each additional member.

(b) The department shall determine family income:

(i) According to AFDC methodology, except the department shall:

(A) Exclude the income of the unmarried father of the unborn or unborns unless the income is actually contributed; and

(B) Determine eligibility as if the unborn or unborns are born.

(ii) ((~~Apply~~)) By applying the special situations as required under WAC 388-83-130.

(c) The department shall consider the provisions of WAC 388-83-130(1) in determining countable income for a pregnant minor.

(4) The department shall not consider resources in determining the pregnant woman's eligibility.

(5) Changes in family income shall not affect eligibility for medical assistance for the pregnant woman during pregnancy and when eligible under subsection (2) of this section through the end of the month that contains the sixtieth day from the last day of pregnancy:

(a) Once the department determines a pregnant woman eligible under this section; or

(b) If at any time while eligible for and receiving medical assistance a pregnant woman meets the eligibility requirements of this section.

AMENDATORY SECTION (Amending Order 3308, filed 1/15/92, effective 2/15/92)

WAC 388-83-033 CHILDREN—ELIGIBLE TO EIGHTEEN YEARS OF AGE. (1) The department shall find a child who has not yet attained eighteen years of age eligible for Medicaid when the child meets citizenship, residence, and Social Security Number requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) Effective January 1, 1992, a child born on or before September 30, 1983, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income ((~~and resources are~~)) is equal to or less than the AFDC income ((~~and resource~~)) standards;

(b) A child six years of age or older born on or after October 1, 1983, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. One hundred percent of the ((~~1991~~)) current federal poverty income guidelines is:

| | Family Size | Monthly |
|---|---|---|
| (i) | One | $((~~552~~)) 568 |
| (ii) | Two | ((~~$740~~)) 766 |
| (iii) | Three | ((~~$928~~)) 965 |
| (iv) | Four | ((~~$1,117~~)) 1,163 |
| (v) | Five | ((~~$1,305~~)) 1,361 |
| (vi) | Six | ((~~$1,493~~)) 1,560 |
| (vii) | Seven | ((~~$1,682~~)) 1,758 |
| (viii) | Eight | ((~~$1,870~~)) 1,956 |

(ix) For family units with more than eight members, add $((~~188~~)) 199 to the monthly income for each additional member.

(c) A child who attains one year of age, but has not attained six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred thirty-three percent of the ((~~1991~~)) current federal poverty income guidelines is:

| | Family Size | Monthly |
|---|---|---|
| (i) | One | $((~~734~~)) 755 |
| (ii) | Two | ((~~$984~~)) 1,019 |
| (iii) | Three | ((~~$1,234~~)) 1,283 |
| (iv) | Four | ((~~$1,486~~)) 1,547 |
| (v) | Five | ((~~$1,736~~)) 1,810 |
| (vi) | Six | ((~~$1,986~~)) 2,074 |
| (vii) | Seven | ((~~$2,237~~)) 2,338 |
| (viii) | Eight | ((~~$2,487~~)) 2,602 |

(ix) For family units with more than eight members, add $((~~250~~)) 264 to the monthly income for each additional member.

(d) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the ((~~1991~~)) current federal poverty income guidelines. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age and born before January 1, 1991, eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household and the mother remains eligible for medical assistance.

(b) Find an infant under one year of age and born on or after January 1, 1991, eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household.

(c) Not consider citizenship, application for, or possession of, a Social Security Number, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or application for, or possession of a Social Security Number, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the ((~~1991~~)) current federal poverty income guidelines. See income guidelines as described under subsection (1)(b) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section ((~~except in subsection (1)(a) of this section~~)).

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The child's stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

(7) A child eligible under subsection (3) of this section if pregnant, shall remain eligible:

(a) Regardless of the changes in family income; and

(b) Through the end of the month including the sixtieth day from the day the pregnancy ends.

## WSR 92-11-058
### PERMANENT RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Order 3387—Filed May 19, 1992, 12:03 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Section 1727 of the Agriculture, Conservation and Trade Act amendments of 1991 adds several new student eligibility criteria. WAC 388-49-330 adds

the new criteria. The changes are made to increase the number of students eligible to participate in the food stamp program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-330 Student.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: Public Law 102-237, Section 1727.

Pursuant to notice filed as WSR 92-08-012 on March 20, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3173, filed 5/1/91, effective 6/1/91)

WAC 388-49-330 STUDENT. (1) A student, as defined under WAC 388-49-020, shall meet one of the following criteria to receive food stamps:

(a) Work and receive payment for a minimum of twenty hours per week. A self-employed student's minimum weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Work and receive money from a federal or state work study program;

(c) Be responsible for the care of a dependent household member ((~~five~~)) under six years of age ((~~or younger~~));

(d) Participate in the Job Opportunities and Basic Skill Training (JOBS) program;

(e) Be responsible for the care of a dependent household member at least six years of age, but under twelve years of age, and the department has determined adequate child care is not available;

((~~(e)~~)) (f) Be a single parent responsible for the care of a dependent child twelve years of age or under regardless of the availability of adequate child care;

(g) Receive benefits from the aid to families with dependent children program; or

((~~(f)~~)) (h) Attend an institution of higher education through ((~~a program under Job Training Partnership Act (JTPA)~~)):

(i) The Job Training Partnership Act (JTPA);

(ii) A food stamp act employment and training program;

(iii) Section 236 of the Trade Act of 1974; or

(iv) An approved employment and training program operated by state or local government.

(2) Student status begins the first day of the school term.

(3) Student status continues through normal periods of class attendance, vacation, and recess.

(4) Student status is lost when a student:

(a) Graduates;

(b) Is suspended;

(c) Is expelled;

(d) Drops out; or

(e) Does not intend to register for the next normal school term excluding summer school.

## WSR 92-11-059
## PERMANENT RULES
## DEPARTMENT OF SOCIAL AND HEALTH SERVICES
## (Public Assistance)

[Order 3390—Filed May 19, 1992, 12:06 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Agriculture, Conservation and Trade Act amendments of 1991, Section 1727 changes "student" definition. The change increases eligible students. The definitions "student" (excludes individuals between 50 and 60 years of age) and "nonstriker" were amended.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-020 Definitions.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 92-08-010 on March 20, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3224, filed 8/1/91, effective 9/1/91)

WAC 388-49-020 DEFINITIONS. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in

which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is a:

(a) Person paying reasonable compensation to the household for lodging and meals; or

(b) Foster child.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Department" means the department of social and health services.

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

(f) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Actual utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(35) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(36) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing institutionalization;

(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(37) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by food and nutrition service (FNS).

(38) "Household" means the basic client unit in the food stamp program.

(39) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(40) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(41) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(42) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(43) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(44) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(45) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended before August 8, 1983, consists of any action by a person or persons to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous nonfood items;

(e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(46) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(47) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(48) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,
(b) Rebates,
(c) Retroactive payments, and
(d) Insurance settlements.

(49) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(50) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(51) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(52) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:
(a) Roomer;
(b) Live-in attendant; or
(c) Person who does not purchase and prepare meals with the food stamp household.

(53) "Nonstriker" means any person:
(a) Exempt from work registration the day ((~~prior to~~)) before the strike for reasons other than their employment;
(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;
(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or
(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(54) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(55) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(56) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(57) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(58) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(59) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(60) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(61) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(62) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(63) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(64) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(65) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(66) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(67) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(68) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(69) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(70) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(71) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(72) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(73) "Shelter costs" means:
(a) Rent or mortgage payments plus taxes on a dwelling and property;
(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;
(c) Assessments;
(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;
(e) Standard basic telephone allowance;
(f) Initial installation fees for utility services; and
(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(74) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(75) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

(76) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an

alien as a condition of the alien's admission into the United States as a permanent resident.

(77) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

(78) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(79) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(80) "Student" means any person:

(a) At least eighteen but less than ((~~sixty~~)) fifty years of age((;));

(b) Physically and mentally fit for employment((;)); and

(c) Enrolled at least half time in an institution of higher education.

(81) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(82) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(83) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(84) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-29-100 (3)(b); or

(c) Married.

(85) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(86) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(87) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

## WSR 92-11-060
### PERMANENT RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Order 3386—Filed May 19, 1992, 12:07 p.m.]

Date of Adoption: May 19, 1992.

Purpose: To ensure compliance between state and federal rules. Clients are required to apply for any other benefits to which they may be entitled.

Citation of Existing Rules Affected by this Order: Amending WAC 388-92-034 Availability of income.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 42 CFR Chapter IV, 435.603.

Pursuant to notice filed as WSR 92-08-011 on March 20, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3108, filed 12/5/90)

WAC 388-92-034 AVAILABILITY OF INCOME. (((~~1~~))) The department shall:

(1) Consider client checks received in advance of the month the checks are normally received as income in the month of normal receipt.

(2) ((~~The department shall~~)) Consider electronically transferred client funds available as income in the month of normal receipt, regardless of whether the banking institution posted the funds to the client's bank account before or after the month the funds are payable. ((~~Such payments become subject to counting as a resource in the month following the month of normal receipt.~~))

(3) ((~~The department shall~~)) Exclude as unearned income the unearned income amounts withheld due to garnishment pursuant to a court, administrative, or agency order.

(4) ((~~The department shall~~)) Include as earned income the earned income amounts withheld due to garnishment.

(5) As a condition of eligibility, require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so. Annuities, pensions, retirement and disability benefits include, but are not limited to, veteran's compensation

and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

## WSR 92-11-061
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3385—Filed May 19, 1992, 12:08 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Clarify language and ensure medical care support is assigned for all medical programs, not just Medicaid.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-012 Assignment of rights.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 92-08-013 on March 20, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2809, filed 6/7/89)

WAC 388-83-012 ASSIGNMENT OF RIGHTS. (1) As a condition of eligibility for any medical ((~~assistance~~)) program, an applicant or recipient/enrollee shall assign to the state of Washington all right, title, and interest to any medical care support available as a result of:

(a) A court order;

(b) An administrative agency order; or

(c) Any third-party payments for medical care.

(2) The applicant or recipient/enrollee shall assign rights of payment to any medical care support the applicant or recipient/enrollee may have in his or her own behalf or on the behalf of any other applicant or recipient/enrollee for whom the applicant or recipient/enrollee can legally assign such rights.

## WSR 92-11-062
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3393—Filed May 19, 1992, 12:10 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Amendment brings WAC into compliance with federal child care and development block grant rules and at-risk grant rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-170 General and seasonal child day care services.

Statutory Authority for Adoption: RCW 74.12.340.

Other Authority: 45 CFR 98.20, 98.30, 98.43, and 98.45; and 45 CFR 257.21, 257.30, 257.31, and 257.41.

Pursuant to notice filed as WSR 92-08-030 on March 23, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2732, filed 12/2/88)

WAC 388-15-170 GENERAL AND SEASONAL CHILD DAY CARE SERVICES. (1) The department may approve child day care funding to facilitate care, protection, and related services for a child ((~~under fifteen~~)) twelve years of age or younger. The department may approve special needs child care for a child:

(a) Nineteen years of age or younger who is physically or mentally incapable of caring for himself or herself, as verified by the state based on a determination by a physician or a licensed or certified psychologist; or

(b) Who is under court supervision.

(2) The department shall only fund child day care during the portion of the twenty-four-hour day when neither of the child's parents are able to provide necessary care and supervision. The department may authorize child day care services for the following reasons:

(a) Parent is employed and is not an Aid for Dependent Children (AFDC) grant recipient;

(b) Parent is employed and receiving AFDC;

(c) Parent is receiving AFDC and is enrolled in ((~~an approved work incentive program (WIN) (not to exceed one year) leading toward employment~~)) Job Opportunity and Basic Skills (JOBS);

((~~(c)~~)) (d) School-aged parent is enrolled in an approved secondary education or GED program;

((~~(d)~~)) (e) Parent and/or child are in need of treatment or support as part of a child protective or child welfare services case plan. Such services may include, but are not limited to, those provided by a professional child welfare or educational agency.

((~~(2)~~)) (3) The department shall limit goals for general child day care services as specified in WAC 388-15-010 (1)(a), ((~~(b)~~)) (d), and ((~~(c)~~)) (e). Also see WAC 388-15-010(2).

((~~(3)~~)) (4) The department may purchase child day care, except for seasonal farmworker child care, within available funds for families:

(a) With gross income equal to or below thirty-eight percent of the state median income adjusted for family size (SMIAFS). These families pay the provider a minimum monthly co-payment toward the cost of child day care;

(b) With gross income above thirty-eight and at or below fifty-two percent of the SMIAFS. The family shall pay to the child day care provider ((~~fifty percent~~)) part of their gross monthly income above the thirty-eight percent SMIAFS toward the cost of child day care;

(c) In need of child day care as an integral part of a child protective or child welfare service plan. The department shall provide such service without regard to family income((;

~~(d) In need of child day care as an integral part of a child welfare service plan and with gross income at or below fifty-two percent of the SMIAFS. The family shall pay the child care provider fifty percent of their gross monthly income above the thirty-eight percent SMIAFS toward the cost of care~~)) up to seventy-five percent SMIAFS.

((~~(4)~~)) (5) The department may purchase seasonal child day care within available funds for children who are members of family units residing in Washington state where:

(a) Both parents, or the single parent (in the case of the one-parent family), are currently employed or seeking work in agriculturally related work; ((~~and~~))

(b) At least fifty percent of the family's annual income is derived from agriculturally related work; ((~~and~~))

(c) ((~~Both parents, or the single parent, have~~)) In a two-parent household, the primary wage earner has more than one agricultural employer per year; in a one-parent household, the single parent has more than one agricultural employer per year; ((~~and~~))

(d) Family gross income for the past twelve months does not exceed thirty-eight percent of the SMIAFS. These families shall pay the provider a minimum monthly co-payment toward the cost of child day care. Families with gross income above thirty-eight percent and at or below fifty-two percent of the SMIAFS shall pay the child day care provider fifty percent of their average gross monthly income above the thirty-eight percent SMIAFS toward the cost of child day care((:)); and

(e) Failure of parents to meet the requirements of subsection (4)(b) and (c) of this section due to status within the past year as an AFDC recipient shall not result in ineligibility for seasonal child care.

((~~(5)~~)) (6) The department shall establish waiting lists, if necessary, to ensure child day care services, under WAC 388-15-170, are provided within legislatively appropriated funds.

((~~(6)~~)) (7) The department shall consider((s)) in-home care or relative, relative's home care as the care and supervision of a child:

(a) By a relative in the child's own home or a relative's home; or

(b) In their own home with an unrelated person.

((~~(7)~~)) (8) When the department approves an in-home care or relative, relative's home child care plan at the request of a parent, the caretaker shall meet the following minimum qualifications and fulfill the following responsibilities:

(a) Be eighteen years of age or older;

(b) Be free of communicable disease, including tuberculosis, as shown by tests within the year ((~~and every two years thereafter~~));

(c) Be of sufficient physical, emotional, and mental health to meet the needs of the children in care;

(d) Subject to the discretion of the worker, the caretaker shall provide written evidence that ((~~he or she~~)) such caretaker is in sufficient physical, emotional, and mental health to be a safe caretaker;

(e) Work with children without using corporal punishment or psychological abuse;

(f) Accept and follow instructions;

(g) Maintain personal cleanliness;

(h) Be prompt and regular in job attendance;

(i) Meet the department's registration requirement;

(j) The in-home caretaker shall have the following responsibilities:

(i) Consider his or her primary function as that of child day care provider;

(ii) Provide constant care and supervision of the children for whom they are responsible throughout the time they are on duty in accordance with the children's needs; and

(iii) Provide appropriate activities for children under their care.

((~~(8)~~)) (9) Payment standards for child day care. The department shall establish maximum child care rates taking into consideration prevailing community rates.

(a) When the parent chooses in-home care or relative, relative's home care, the parent shall receive payment for the cost of child day care and shall pay the ((~~in-home care~~)) provider according to the amount specified in the approved child care plan.

(b) The in-home, or relative, relative's home care provider shall sign a receipt at the time payment is received. The parent must retain the payment receipt for review by the authorizing worker at the time of the next eligibility determination.

(c) If total payments to an in-home provider are ((~~expected to be~~)) fifty dollars or more in any one quarter, the department shall add the employer's share of the FICA tax to the amount authorized for in-home care.

(d) Payment for child day care by relative. The department shall not allow ((~~no~~)) payment for child care services by the following relatives: Father, mother, brother, sister, stepfather, stepmother, stepbrother, or stepsister, except for adult siblings residing outside the child's home.

(e) A child is eligible for Employment Child Care subsidies when:

(i) The child receives an AFDC grant; ((~~and~~))

(ii) The child lives with a nonresponsible relative;

(iii) The relative does not receive an AFDC grant; and

(iv) The relative is employed.

## WSR 92-11-063
### PERMANENT RULES
### DEPARTMENT OF SOCIAL AND HEALTH SERVICES
### (Public Assistance)

[Order 3392—Filed May 19, 1992, 12:11 p.m.]

Date of Adoption: May 19, 1992.

Purpose: To amend rules to exclude earmarked student expenses from student educational income from all sources. Also, to clarify by technical corrections, current

policy regarding excluded earnings by persons under 18 years of age and excluded child support payments.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-470 Income—Exclusions.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: Public Law 102-237.

Pursuant to notice filed as WSR 92-08-108 on April 1, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3316, filed 1/21/92, effective 2/21/92)

WAC 388-49-470 INCOME—EXCLUSIONS. (1) The department shall exclude the following income:

(a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;

(b) Income specifically excluded by any federal statute from consideration as income in the food stamp program;

(c) The earned income of ((~~children~~)) household members who are:

(i) ((~~Members of the household;~~

~~(ii)~~)) Seventeen years of age or under; and

((~~(iii)~~)) (ii) Attending school at least half time.

(d) Infrequent or irregular income received during a three-month period that:

(i) Cannot be reasonably anticipated as available; and

(ii) Shall not exceed thirty dollars for all household members.

(e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;

(f) Nonrecurring lump sum payments;

(g) The cost of producing self-employment income;

(h) ((~~Financial aid received under Title IV of the Higher Education Act designated~~)) The portion of educational assistance earmarked by the school or actually used by the student for:

(i) Tuition;

(ii) Mandatory fees, including rental or purchase of equipment, materials, and ((~~material~~)) supplies related to pursuing the course of study;

(iii) Books;

(iv) Supplies;

(v) Transportation; and

(vi) Miscellaneous personal expenses((~~, including dependent care, determined by the institution.~~

~~(i) Other federal financial aid designated by the school for:~~

~~(i) Tuition; and~~

~~(ii) Mandatory fees.~~

~~(j) Nonfederal financial aid designated by the school for:~~

~~(i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and~~

~~(ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and dependent care~~)).

((~~(k)~~)) (i) Reimbursements for past or future expenses to the extent the reimbursements do not:

(i) Exceed the actual expense; and

(ii) Represent a gain or benefit to the household.

((~~(l)~~)) (j) Any gain or benefit not in money;

((~~(m)~~)) (k) Vendor payments as defined in WAC 388-49-020;

((~~(n)~~)) (l) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;

((~~(o)~~)) (m) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;

((~~(p)~~)) (n) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

| Number in Grant Assistance Unit | Energy Exclusion |
|---|---|
| 1 | $ 55 |
| 2 | 71 |
| 3 | 86 |
| 4 | 102 |
| 5 | 117 |
| 6 | 133 |
| 7 | 154 |
| 8 or more | 170 |

((~~(q)~~)) (o) Support payments owed to a household member, but specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

((~~(r)~~)) (p) Support payments on behalf of a household member, not required by the support court order or other legally binding written support or alimony agreement and paid directly to a third party rather than to the household;

((~~(s)~~)) (q) Payments from the individual and family grant program;

((~~(t)~~)) (r) Public assistance payments:

(i) Over and above the regular warrant amount;

(ii) Not normally a part of the regular warrant; and

(iii) Paid directly to a third party on behalf of the household.

((~~(u)~~)) (s) From Jobs Training Partnership Act programs:

(i) Allowances; and

(ii) Earnings from on-the-job training by household members under parental control and eighteen years of age and younger.

((~~(v)~~)) (t) Cash donations based on need:

(i) Received directly by the household;

(ii) From one or more private, nonprofit, charitable organizations; and

(iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

((~~(w)~~)) (u) Earned income credit.

(2) When ((~~a child's~~)) earnings or amount of work performed by a household member described in subsection (1) (c) of this section, cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members; and

(b) Exclude the ((~~child's~~)) household member's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the department shall exclude:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household; or

(b) If the portions are not readily identified as:

(i) An even pro rata share; or

(ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

## WSR 92-11-064
### PROPOSED RULES
### LAW REVISION COMMISSION
[Filed May 19, 1992, 2:01 p.m.]

Original Notice.

Title of Rule: Rules of the Washington Law Revision Commission.

Purpose: Provide basic information about the commission's organization, operation, and sources of information.

Statutory Authority for Adoption: RCW 1.30.050.

Statute Being Implemented: RCW 34.05.220(b).

Summary: Describes purpose, duties, membership, organization, regular meeting dates, location of public records, and activities of the commission.

Reasons Supporting Proposal: Need for formal statement of this information about the commission.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marjorie D. Rombauer, Condon Hall, University of Washington, Seattle, Washington 98105, (206) 543-4908.

Name of Proponent: Law Revision Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The Washington Law Revision Commission adopted rules in 1983 but did not comply with rule-making procedures of the Administrative Procedure Act. Updated rules are now proposed for adoption in accordance with that procedure.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Room 29, Condon Hall, University of Washington, Seattle, Washington 98105, on June 26, 1992, at 1:00 p.m.

Submit Written Comments to: Marjorie D. Rombauer, 1100 N.E. Campus Parkway, Seattle, WA 98105, by June 22, 1992.

Date of Intended Adoption: June 26, 1992.

May 18, 1992
Marjorie D. Rombauer
Chairperson

Chapter 306-01 WAC
WASHINGTON STATE LAW REVISION COMMISSION

WAC


| | |
|---|---|
| 306-01-010 | Purpose |
| 306-01-020 | Membership |
| 306-01-030 | Officers |
| 306-01-040 | Meetings |
| 306-01-050 | Public Records |
| 306-01-060 | Law Revision Commission Research Projects |
| 306-01-070 | Reports to the Legislature |
| 306-01-080 | Coordination of Commission Activities |


NEW SECTION

WAC 306-01-010 PURPOSE AND DUTIES. The Law Revision Commission is established pursuant to Chapter 1.30 RCW. The purpose of the Law Revision Commission is to: (1) provide facilities and procedures to undertake the scholarly investigation of the law; (2) recommend to the Legislature elimination of antiquated and inequitable rules of law and removal of other defects or anachronisms in the law; and (3) encourage the clarification and simplification of the law in Washington and to promote its better adaptation to modern conditions. The specific duties of the Commission are set forth in RCW 1.30.040.

NEW SECTION

WAC 306-01-020 MEMBERSHIP. The Law Revision Commission consists of 13 members as follows:

(1) Two senators, ex officio, designated by the President of the Senate, and not members of the same political party;

(2) Two representatives, ex officio, designated by the Speaker of the House of Representatives, and not members of the same political party;

(3) Three deans of accredited law schools of the State, ex officio, or their designees from members of their respective law faculties;

(4) Four lawyers admitted to practice in the State, designated by the Board of Governors of the Washington State Bar Association;

(5) Two non-lawyer members with a demonstrated interest in the work of the Law Revision Commission, appointed by the Governor.

NEW SECTION

WAC 306-01-030 OFFICERS. There shall be a chair, a vice-chair, and a secretary of the Law Revision Commission, each elected by majority vote of the members. The officers shall serve at the pleasure of the Commission.

NEW SECTION

WAC 306-01-040 MEETINGS. (1) The Law Revision Commission shall hold its regular meetings on the last Friday of March, of June, and of September, and the first Friday of December of each year. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. The Law Revision Commission may hold other meetings from time to time when called by the chair or when requested by five members of the Commission.

(2) Five members of the Commission shall constitute a quorum for the transaction of business.

(3) All meetings of the Commission shall be open to the public. Members of the public who wish to attend meetings held by conference phone call may attend by appearing at any one of the locations where members of the Commission convene for such conference phone call meeting. Any member of the public may learn of the locations of such conference phone call meeting places by contacting the Secretary of the Commission.

(4) Meetings of the Commission shall be held in accordance with Roberts' Rules of Order, current revised edition, whenever requested by any member of the Commission.

NEW SECTION

WAC 306-01-050 PUBLIC RECORDS. (1) All public records of the Law Revision Commission, including minutes, shall be available unless exempt from disclosure under Chapters 41.17 or 42.30 RCW. Any member of the public may examine records of the Commission by directing a request to the Secretary. The Secretary shall determine charges for copying Commission records for a requesting member of the public, at a charge not to exceed the actual cost of reproduction.

(2) Copies of the minutes, reporting, and certain other records of the Law Revision Commission shall be on file at the University of Washington School of Law. Requests for examination of the materials located at the School of Law may be addressed to the Dean, University of Washington School of Law, Condon Hall, Seattle, Washington, 98105, with a copy of such request to the Secretary of the Commission.

NEW SECTION

WAC 306-01-060 LAW REVISION COMMISSION RESEARCH PROJECTS. (1) Any Commissioner, state official, or any member of the public may suggest topics for study and recommendation by the Commission by directing a request to the chair or the secretary.

(2) The Commission may at its discretion choose topics for study and recommendation.

(3) The Commission may refer topics for study to subcommittees composed of members. These subcommittees may consult with other organizations or individuals and report their findings to the Commission.

(4) The Commission will circulate final drafts of its reports and recommendations to any persons who have requested copies of such drafts in a specific subject area, before making recommendation to the Legislature.

NEW SECTION

WAC 306-01-070 REPORTS TO THE LEGISLATURE. The Commission shall report on its proceedings annually to the Legislature, on or before January 15 of each year, and, if the Commission deems advisable, accompany its report with proposed legislation to carry out any of its recommendations. The Law Revision Commission may transmit any other reports and recommended legislation to the Legislature at any other time.

NEW SECTION

WAC 306-01-080 COORDINATION OF COMMISSION ACTIVITIES. The Commission shall confer and coordinate its activities with any committees of the Legislature, the State Bar Association, the Uniform Law Commission, the Statute law Committee, or the Judicial Council in a manner as the Law Revision Commission finds will most efficiently accomplish its purposes and carry out its duties.

## WSR 92-11-065
### EMERGENCY RULES
### DEPARTMENT OF FISHERIES
[Order 92-33—Filed May 19, 1992, 3:13 p.m., effective May 20, 1992, 6:00 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Commercial and personal fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100K and 220-56-32500U.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The available harvest of Hood Canal shrimp has been taken.

Effective Date of Rule: May 20, 1992, 6:00 p.m.

May 19, 1992
Joseph R. Blum
Director

*NEW SECTION*

*WAC 220-56-32500V PERSONAL USE SHRIMP—HOOD CANAL. Notwithstanding the provisions of WAC 220-56-325, effective 6:00 p.m. May 20, 1992 it is unlawful to fish for or possess shrimp taken for personal use from all waters south of the Hood Canal Floating Bridge.*

*REPEALERS*

*The following sections of the Washington Administrative Code are repealed effective 6:00 p.m. May 20, 1992.*

*WAC 220-52-05100K COMMERCIAL SHRIMP SEASON—HOOD CANAL. (92-24)*

*WAC 220-56-32500U PERSONAL USE SHRIMP—HOOD CANAL. (92-24)*

## WSR 92-11-066
### EMERGENCY RULES
### DEPARTMENT OF FISHERIES
[Order 92-34—Filed May 19, 1992, 3:15 p.m.]

Date of Adoption: May 19, 1992.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

Effective Date of Rule: Immediately.

May 19, 1992
Joseph R. Blum
Director

*NEW SECTION*

*WAC 220-33-03000D COMMERCIAL SHAD—COLUMBIA RIVER Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or*

*possess shad for commercial purposes except as provided for in this section:*

*FISHING PERIODS*

*(1) Shad Area 2S is open:*
*4:00 a.m. to 10:00 p.m. May 20, 1992;*
*4:00 a.m. to 10:00 p.m. May 21, 1992;*
*4:00 a.m. to 10:00 p.m. May 22, 1992;*

*4:00 a.m. to 10:00 p.m. May 26, 1992;*
*4:00 a.m. to 10:00 p.m. May 27, 1992;*
*4:00 a.m. to 10:00 p.m. May 28, 1992;*
*4:00 a.m. to 10:00 p.m. May 29, 1992;*

*4:00 a.m. to 10:00 p.m. June 1, 1992;*
*4:00 a.m. to 10:00 p.m. June 2, 1992;*
*4:00 a.m. to 10:00 p.m. June 3, 1992;*
*4:00 a.m. to 10:00 p.m. June 4, 1992;*
*4:00 a.m. to 10:00 p.m. June 5, 1992;*

*4:00 a.m. to 10:00 p.m. June 8, 1992;*
*4:00 a.m. to 10:00 p.m. June 9, 1992;*
*4:00 a.m. to 10:00 p.m. June 10, 1992;*
*4:00 a.m. to 10:00 p.m. June 11, 1992; and*
*4:00 a.m. to 10:00 p.m. June 12, 1992.*

*(2) The Camas–Washougal Reef Area is open:*
*4:00 a.m. May 20 to 11:59 p.m. May 22, 1992;*
*4:00 a.m. May 26 to 11:59 p.m. May 29, 1992;*
*4:00 a.m. June 1 to 11:59 p.m. June 5, 1992;*
*4:00 a.m. June 8 to 11:59 p.m. June 12, 1992; and*
*4:00 a.m. June 15 to 11:59 p.m. June 19, 1992.*

*GEAR*

*(3) Gill net gear may be used to fish for shad as provided in WAC 220–33–030(1), except that in the Camas–Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.*

*GENERAL*

*(4) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.*

## WSR 92-11-067
## DEPARTMENT OF ECOLOGY
[Filed May 20, 1992, 10:18 a.m.]

Notice of Rules Review

The Washington State Department of Ecology will review rules under RCW 19.85.050. Ecology requests comments from businesses and the public on the economic impact on small business of regulations promulgated prior to 1989. Comments that address specific concerns related to sections of rules rather than whole rules will be particularly helpful. Comments which address each of the items in the prioritization list below is requested. Comments that indicate the SIC code affected and the nature of small business impacts will also be considered. Ecology's prioritization of the review effort will be based on: The continued need for the rule; the nature of the complaints or comments received concerning the rule from the public; the complexity of the rule; the extent to which the rule overlaps, duplicates, or conflicts with other state or federal rules, and to the extent feasible with local government rules; and the degree to which technology, economic conditions, or other factors have changes in the subject area affected by the rule.

Commenters should note that ecology can not review federal requirements under this compliance effort. Comments should be sent by July 30, 1992 to: Paige Boule', Rules Coordinator, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98506–7600.

## WSR 92-11-068
## PROPOSED RULES
## DEPARTMENT OF ECOLOGY
[Order 92-11—Filed May 20, 1992, 10:23 a.m.]

Supplemental Notice to WSR 92–07–085.

Title of Rule: Chapter 173–202 WAC, Washington forest practices rules and regulations to protect water quality.

Purpose: To improve protection of water quality, water quantity, wetlands and aquatic habitat.

Other Identifying Information: This notice is being filed due to modifications in language based on public comment.

Statutory Authority for Adoption: Chapters 90.48 and 76.09 RCW.

Statute Being Implemented: Chapter 90.48 RCW.

Summary: Proposed rules address wetlands protection, cumulative effects, stream temperature control, forest chemical use and SEPA as it applies to forest practices.

Reasons Supporting Proposal: Proposals will result in a net improvement of protection for water quality, water quantity, wetlands and aquatic habitat.

Name of Agency Personnel Responsible for Drafting: David Roberts, P.O. Box 47600, Olympia, WA 98504, (206) 438–7088; Implementation: Fred Greef, P.O. Box 47600, Olympia, WA 98504, (206) 493–9496; and Enforcement: Regional Staff (TFW) and Fred Greef, P.O. Box 47600, Olympia, WA 98504, (206) 493–9496.

Name of Proponent: Department of Ecology and Forest Practices Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Adequate staffing has been allotted for implementation.

Rule is necessary because of federal law, Federal Clean Water Act; and state court decision, Lake Roesiger (Washington FBP vs. Snohomish County).

Explanation of Rule, its Purpose, and Anticipated Effects: The Departments of Natural Resources, Ecology, and the Forest Practices Board jointly adopt forest practice regulations to protect water quality. This proposal adds new rules and revises existing rules to significantly improve public resource protection for water quality and aquatic habitat. The new regulations provide resource

protection from the cumulative effects of forest practices and establish protection for wetlands.

Proposal Changes the Following Existing Rules: This proposal also changes existing forest practice rules. The definition of forest practices subject to review under the State Environmental Protection Act (SEPA) and Department of Ecology SEPA rules is expanded. Shade requirements to protect water temperature are increased. The requirements for handling, storage, and application of chemicals are changed.

Small Business Economic Impact Statement: [No information supplied by agency.]

Hearing Location: Best Western Tacoma Inn, 8726 South Hosmer, Tacoma, on June 25, 1992, at 1:00 and 7:00.

Submit Written Comments to: Ed Summerfield, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504, by June 25, 1992.

Date of Intended Adoption: June 30, 1992.

March 18, 1992
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order 88-19, filed 10/27/88)

WAC 173-202-020 CERTAIN WAC SECTIONS ADOPTED BY REFERENCE. The following sections of the Washington Administrative Code ((~~as now promulgated~~)) existing on June 30, 1992, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.
WAC 222-12-010—Authority.
WAC 222-12-040—Alternate plans.
WAC 222-12-045—Adaptive management.
WAC 222-12-046—Cumulative effects.
~~WAC 222-12-070—Enforcement policy.~~
~~WAC 222-12-090—Forest practices board manual.~~
WAC 222-16-010—General definitions.
~~WAC 222-16-020 (1), (6), (7), (8)—Water and wetland categories.~~
WAC 222-16-030—Water typing system.
WAC 222-16-035—Wetland typing system.
((~~WAC 222-16-046—Watershed analysis implementation.~~))
WAC 222-16-050—Classes of forest practices.
~~WAC 222-16-060—Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.~~))
WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.
WAC 22-22-010—~~Cumulative effects—~~Policy, ~~and approach.~~
WAC 222-22-020—Watershed administrative units.
WAC 22-22-030—Qualification of watershed resource analysts, specialists, and field managers.
WAC 222-22-040—Watershed prioritization.
WAC 222-22-050—Level 1 watershed resource assessment.
WAC 222-22-060—Level 2 watershed resource assessment.
WAC 222-22-070—Prescription recommendation.
WAC 222-22-080—Approval of watershed analysis.
WAC 222-22-090—Use and review of watershed analysis.
WAC 222-22-100—Application review prior to watershed analysis.
WAC 222-24-010—Policy.
WAC 222-24-020 (2), (3), (4), (6)—Road location.
WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.
WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9) ((~~10~~))—Road construction.
WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.
WAC 222-24-040—Water crossing structures.
WAC 222-24-050—Road maintenance.
WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
WAC 222-30-010—Policy—Timber harvesting.
WAC 222-30-020 (2), ((3)), ((4)), (((5))3), (((6))4), (((7))5), (6), (7), (8)—Harvest unit planning and design.
WAC 222-30-025—Green-up: ((~~Harvest unit size and separation~~)) Even-aged harvest size and timing.
WAC 222-30-030—Stream bank integrity.
WAC 222-30-040—((~~Temperature control~~)) Shade requirements to maintain stream temperature.
WAC 222-30-050 (1), (2), (3)—Felling and bucking.
WAC 222-30-060 (1), (2), (((2))3), (((3))4), (((4))5)(c)—Cable yarding.
WAC 222-30-070 (1), (2), (3), (((3))4), (((4))5), (((6))7), (((7))8), (((8))9)—Tractor and wheeled skidding systems.
WAC 222-30-080 (1), (2)—Landing cleanup.
WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
~~WAC 222-32-010—Policy—Watershed analysis.~~
~~WAC 222-32-030—Watershed administrative units.~~
~~WAC 232-32-040—Qualification of watershed resource analysts, specialists, and field managers.~~
~~WAC 222-32-050—Watershed prioritization.~~
~~WAC 222-32-060—Level 1 watershed resource assessment.~~
~~WAC 222-32-070—Level 2 watershed resource assessment.~~
~~WAC 222-32-080—Prescription recommendation.~~
~~WAC 222-32-090—Approval of watershed analysis.~~
~~WAC 222-32-100—Cumulative effects from forest practices. Use and review of watershed analysis.~~
~~WAC 222-32-101—Application review prior to watershed analysis.~~
WAC 222-34-040—Site preparation and rehabilitation.
WAC 222-38-010—Policy—Forest chemicals.
WAC 222-38-020—Handling, storage, and application of pesticides.
WAC 222-38-030—Handling, storage and application of fertilizers.
WAC 222-38-040—Handling, storage, and application of other forest chemicals.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 92-11-069
### PROPOSED RULES
### FOREST PRACTICES BOARD
[Filed May 20, 1992, 10:27 a.m.]

Supplemental Notice to WSR 92-07-093.

Title of Rule: Amendment to forest practices rules, Title 222 WAC.

Purpose: To modify provisions of forest practices rules, in order to protect public resources while maintaining a viable timber industry.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, and chapter 34.05 RCW.

Statute Being Implemented: Chapter 76.09 RCW.

Summary

Cumulative Effects of Forest Practices: Policy statements on cumulative effects (WAC 222-12-046) and watershed analysis (WAC 222-22-010); and provides for a watershed analysis system to deal with cumulative effects in watershed administrative units of 10,000 to 50,000 acres (WAC 222-22-020 through 222-22-100).

Size and Timing of Even-Aged Harvest: Limits size of even-aged harvest unit to 240 acres (WAC 222-30-025); and limits harvest unit size on islands in inland salt water, including Puget Sound and the San Juan Islands (WAC 222-30-110).

Wetlands: Modifies the water typing system (WAC 222-16-030); and transposes water type definitions from WAC 222-16-020 to WAC 222-16-030; adds a wetland typing system (WAC 222-16-035); modifies the definitions of classes of forest practices (WAC 222-16-050); modifies existing road construction and maintenance rules to provide for wetlands protection (chapter

222-24 WAC); revises timber harvesting policy to provide wetlands protection (WAC 222-30-010); integrates wetlands and wetland management zones with riparian management zone protection where they overlap (WAC 222-30-020 (3) and (4)); provides for protection of wetlands and wetland management zones (WAC 222-30-020 (6) through (8)); and adds wetlands to existing rules for timber harvesting reforestation practices (WAC 222-30-050, 222-30-060, 222-30-070, 222-30-090, 222-30-100, and 222-34-040).

Revise Definition of Class IV-Special Forest Practices: Class IV-Special forest practices are those practices which are subject to review under the State Environmental Policy Act (SEPA) and SEPA rules: Revises provisions for aerial application of pesticides (WAC 222-16-050 (1)(a) and 222-16-070); revises the definition of critical wildlife habitat (WAC 222-16-050 (1)(b) and 222-16-080); modifies the provisions for forest practices other than timber harvest on slide prone areas (WAC 222-16-050(d)); adds timber harvest on slide prone areas (WAC 222-16-050 (1)(e)); adds forest practices on snow avalanche slopes (WAC 222-16-050 (1)(f)); adds forest practices on archaeological sites, historical sites, and sites containing evidence of specified elements of Native American interest (WAC 222-16-050 (1)(g)); adds forest practices which deviate from prescriptions in watershed analysis (WAC 222-16-050 (1)(h)); and adds filling and draining of more than 0.5 acre of a wetland (WAC 222-16-050 (1)(i)).

Shade Requirements to Maintain Stream Temperature: Requires use of a specified method to determine adequate shade cover for streams. No trees are to be removed from the riparian management zone if their removal would result in inadequate shade cover (WAC 222-30-040).

Handling, Storage, and Application of Chemicals: Segregates forest chemicals into pesticides, fertilizers, and other forest chemicals (WAC 222-16-010); provides specific rules for pesticides (WAC 222-38-020), fertilizers (WAC 222-38-030), and other forest chemicals (WAC 222-38-040); and provides for protection of wetlands from chemicals (chapter 222-38 WAC).

Wildlife Reserve Trees: Provides for retention of trees and logs for wildlife habitat when timber is harvested (WAC 222-30-020(11)).

Reasons Supporting Proposal: Advances in scientific knowledge, over the past several years significant advances have been made in the knowledge of natural processes in the forest. The new knowledge has provided the foundation for new approaches in the proposed rules; experience, the experience of trained professionals working in forest practices has shown that there are improved ways of dealing with the impacts of forest practices; court decision, the Superior Court of Snohomish County rendered a decision that declared invalid the former rule classifying certain forest practices as Class IV-Special. Title 222 WAC establishes minimum standards for all forest practices regardless of the class of forest practice. The rule proposal identifies those forest practices that, even if the minimum standards are met, have the potential for substantial impact on the environment and are therefore classified as Class-IV-special; and wildlife habitat, the proposal extends protection of wildlife to some elements of habitat upon which wildlife depend.

Name of Agency Personnel Responsible for Drafting: Ed Summerfield, 1007 South Washington, Olympia, WA, (206) 753-5315; Implementation and Enforcement: Jack Hulsey, 1007 South Washington, Olympia, WA, (206) 753-5315.

Name of Proponent: State of Washington Forest Practices Board, governmental.

Rule is necessary because of state court decision, Snohomish County Superior Court No. 89-2-069 23-5 (applies only to the definition of Class IV-Special forest practices).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal would provide for protecting wetlands in forests, regulating the cumulative effects of forest practices, regulating the size and timing of timber harvest, preserving trees required as habitat for cavity-nesting wildlife, and modifying existing rules to accommodate new knowledge. The overall purpose is to protect public resources while maintaining a viable forest industry. The proposal, if adopted, would provide greater protection for public resources.

Proposal Changes the Following Existing Rules: Extends the list of forest practices subject to SEPA review (WAC 222-16-050(1)); modifies rules for handing and use of chemicals in forests (chapter 222-38 WAC); modifies provisions for maintaining shade to avoid excessive stream temperatures (WAC 222-30-040); in rules regulating road construction and maintenance, and timber harvesting, provides for protection of wetlands (chapters 222-24 and 222-30 WAC); and adds several definitions (WAC 222-16-010).

Small Business Economic Impact Statement

Introduction

The Forest Practices Board is proposing to adopt changes to state forest practice regulations as provided for under chapter 76.09 RCW. These changes encompass forest practice rules regulating forest practices dealing with streamside temperature, chemicals, wildlife leave trees, wetlands, harvest size and timing, and cumulative effects.

The purpose of this assessment is to highlight the economic impacts of these forest practice regulations on specific industrial sectors and to determine if such impacts disproportionately fall on small businesses. Such assessments are required by the Regulatory Fairness Act, chapter 19.85 RCW.

The Regulatory Fairness Act

The Regulatory Fairness Act, chapter 19.85 RCW, was adopted in 1982 to minimize proportionately higher economic impacts of state regulations on small businesses. The act requires that state agencies review all regulations (proposed and existing) to ensure that the costs of compliance are considered, analyzed, and mitigated if they are found to place a disproportionately higher burden on small firms. "Small business" is defined in RCW 43.31.025 as "any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all

other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.["]

The Regulatory Fairness Act requires that all rules which have an economic impact on more than 10 percent of the businesses in any one industry or on more than 20 percent of all industries in the state be reviewed and, if necessary, altered to minimize the impact on small businesses. To satisfy the Regulatory Fairness Act, a small business economic impact statement is drafted for each rule that meets the above criteria. In the legislation, "industry" is defined as any activity at the three–digit SIC (standard industrial classification) level.

When a small business economic impact statement is required, it must include a brief description of the compliance requirements of the rule, a description of the kinds of professional services needed by a small business in order to comply, and, based on existing data, an analysis of the costs of compliance. Finally, a comparison should be made, to the greatest extent compliance with the 10 percent of the businesses which comprise the largest businesses required to comply with the proposed rules. For those compliance activities for which no precise cost estimates are available, qualitative statements may be possible concerning the relative impact on small and large firms. For purposes of comparison, agencies must use cost per employee, cost per hour of labor, cost per $100 of sales, or any combination of these.

When it is found through the impact analysis that a rule places a disproportional burden on small businesses, the requirements of the rule must be mitigated. RCW 19.85.030(1) provides that agencies "shall reduce the economic impact of the rule on small business." Changing a rule to minimize proportionately higher burdens on small businesses is not required when such changes would result in illegal or unconstitutional regulations or when changes are not "feasible in meeting the stated objective of the statutes which are the basis for the proposed rule." Unless an agency determines that changes are not legal or feasible, the agency must undertake one or more steps to reduce the impact: Establish differing compliance or reporting requirements or time tables for small businesses; clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses; establish performance rather than design standards; or exempt small businesses from any or all requirements of the rule.

Economic Impact

The proposed forest practice regulations will have an immediate economic impact on businesses, directly affect one or more industries, and cause increased costs to small businesses. The proposed regulations have the potential to restrict, modify, or prohibit certain forest practices which would have an economic impact on businesses. While the economic impacts probably would not affect more than 20 percent of all industries in the state of Washington, it will affect 10 percent of the businesses in at least one industry at the three–digit level in the state. Consequently, a small business economic impact statement is required.

Given the potential range of compliance costs, including developing mitigation plans for some particular forest practices, obtaining outside professional services or legal counsel, or restricting the range or extent of operations on some parcels, or restricting volume of timber removal, due to regulatory restrictions, it is likely that the relative impact on small firms will be greater on a per employee or per $100 dollars of sales basis than for a large firm.

Affected Industries

The industries that would most likely be directly affected by one or more of the proposed forest practice regulations are listed in the table below. These are the three–digit SIC groups in which more than 10 percent of the firms could be affected by the proposed regulations.

Affected Firms by Industrial Sector and Size

| Industry Group | Gross Business Income | Number of Taxpayers | Number of Firms <50 Employees | Number of Firms >50 Employees | Number of Firms with No Employees | Total Firms |
|---|---|---|---|---|---|---|
| Forestry | | | | | | |
| 081-Timber Tracts | $31,716,393 | 105 | 35 | 3 | 14 | 52 |
| Lumber & Wood Products | | | | | | |
| 241-Logging Camps | $1,105,469,840 | 2495 | 757 | 35 | 342 | 1134 |
| 242-Sawmills & Planing Mills | $2,619,402,441 | 588 | 291 | 84 | 68 | 443 |
| 243-Millwork, Plywood & Structural Members | $1,030,719,464 | 738 | 205 | 52 | 20 | 277 |
| Paper & Allied Products | | | | | | |
| 261-Pulp Mills | $734,563,598 | 4 | 3 | 8 | 0 | 12 |
| 262-Paper Mills | $1,853,641,469 | 8 | 7 | 14 | 2 | 11 |

Source: Washington State Department of Trade and Economic Development. 1989. The Regulatory Fairness Act, Chapter 19.85 RCW, Guidelines for State Agencies.

The numbers in the table must be interpreted with great care. It is highly probable that the number of timber tracts (firms in SIC 081) is substantially underreported. In 1977, there were 8447 individuals who owned less than 20 acres of timberland in western Washington. About 20,800 individuals owned from 21 to 200 acres, another 1630 individuals owned from 201–500 acres of timberland; and only 668 other private landowners owned over 500 acres of timberland. It is not unreasonable to assume that at least the 668 landowners with at least 500 acres manage or harvest their timberlands at least once during their land tenure, if not periodically. One problem is that a taxpayer (individual or business) is commonly reported under the SIC industry from which it derives the majority of its revenues. Consequently, employment, earnings, and wage statistics for a large, vertically integrated timber company with over a million acres of managed timberland would commonly be reported under SIC 24 or 26 industries; statistics for their timberlands would not be reported separately under SIC 081 (timber tracts) industries. Furthermore, these same statistics for a farmer with timber tracts would be reported under the appropriate agricultural SIC industries if his principal source of income was from his agricultural enterprises, rather than from timber harvests.

Thus, there are potentially many other firms, both large and small, that are classified in other 3–digit industries that could be affected by the proposed forest practice regulations. Most, if not all, of these would be affected by the proposed regulations.

The vast majority of the business units that would be impacted by the proposed forest practice regulations would be classified as small businesses. Indeed, using unadjusted data from the table, over 94 percent of the business units in SIC 081 (timber tracts) would be classified as small businesses. Furthermore, over 80 percent of the businesses in the SIC 24 industries (lumber and wood products) would be classified as small businesses.

Comparison of Compliance Costs

Costs associated with the proposed forest practices regulations are extensive. In general, higher administrative and operating costs should be expected, in addition to revenue losses from deferred timber harvests and reductions in long–term productivity. Higher planning and assessment, field design and layout, permit application and handling, field administration, and field monitoring costs will elevate general administrative costs. Operating costs associated with road layout, construction/reconstruction, maintenance, and abandonment will increase, as will logging and site clean up costs. Landowners will incur losses of revenue from short–term restrictions on the rate of harvest and harvest deferrals, as well as from areas set aside from full timber production.

Because of the lack of reliable data, no direct comparison between small and large industries using employment, hours of labor, or earnings is possible. Nevertheless, qualitative statements and professional judgment can be made on the relative impact on small and large businesses.

Wildlife Reserve Trees: The economic impact of the forest practice rule changes associated with wildlife reserve trees could encompass a wide array of direct and indirect impacts, ranging from lost timber revenue to higher insurance costs. Although not all inclusive, these impacts could be lost timber revenues from leave trees and acres taken out of production, higher harvesting costs, higher insurance premiums, and greater risk to life and limb. Many of these costs will be directly associated

with the number of acres harvested over time. While many of these costs may be proportional to acres operated on by small and large businesses, the impacts will probably be proportionately higher on small businesses when using number of employees, hours of labor, or sales as bases of comparison.

Chemicals: The economic impacts of the forest practice rule changes associated with chemicals could encompass a wide array of direct and indirect impacts, ranging from lost timber revenue to higher administrative costs. Although not all inclusive, these impacts could be lost timber revenues from lost growth opportunities, lost timber and land value due to undesirable species conversions, and higher application costs. While many of these costs may be proportional to acres operated on by small and large businesses, the impacts will probably be proportionately higher on small businesses when using number of employees, hours of labor, or sales as bases of comparison. Based on anecdotal observations and USDA Forest Service statistics for western Washington, nonindustrial private landowners own more acreage of hardwoods than private industry (59 percent of the total), acreage which is strongly correlated with streams and wetlands which these regulations are designed to protect and on which chemical use will be most restricted.

Stream Temperature: The economic impact of the forest practice rule changes associated with stream temperature primarily would result from lost timber revenue and higher operating costs. These impacts would include the loss of harvest volume opportunities associated with cutbacks in anticipated harvest plans to prevent preharvest temperature conditions from exceeding water temperature standards, and from complete deferral or prevention of harvesting where preharvest temperature conditions already exceed water temperature standards. These impacts will also be proportionately higher on small timber tract owners for the same reason cited above. That is, nonindustrial private landowners own more acreage of hardwoods than private industry, and this acreage is strongly correlated with streams and associated RMZs. Furthermore, the forest land holdings of the nonindustrial forest land ownership group tends to be concentrated in lower elevations and shade requirements increase as elevation decreases. For these two reasons alone this ownership group will bear a disproportionate burden in preventing preharvest temperature conditions from exceeding water temperature standards.

Harvest Size and Timing: While the economic impact of the proposed regulations on harvest size and timing could have substantial economic impacts on large businesses (the forest industry), they probably do not significantly or disproportionately impact small businesses (small landowners), either because of smaller ownership size or because of assumed tendencies toward smaller clearcuts.

Wetlands: The economic impact of the addition of forest practice rules and regulations for the management of wetlands in the state of Washington will most likely be significant. Forested wetlands and the forested components of nonforested wetlands tend to be highly productive, and on many sites produce high valued cedar and spruce, in addition to western hemlock, among other species. The costs to landowners associated with lost harvest opportunities alone will be significant, not to mention significantly higher costs associated with road construction and maintenance, field design and layout, and other administrative and operating costs. These regulations will probably require that small businesses hire outside consultants for setting up timber harvest plans, and this alone will cause a disproportionate economic impact on small businesses. Furthermore, small forest landowners will be disproportionately impacted because they own more acreage of hardwoods than private industry, acreage which is also strongly correlated with streams and wetlands which these regulations are designed to protect. Even more significant is the distribution of total private forest land ownership of hardwood forest types between small and large landowners. According to the USDA Forest Service, nonindustrial private forest land owners control only 35 percent of the private forestland in western Washington; yet, they own 59 percent of the total hardwood acreage. Approximately 48 percent of the total acreage owned by this landownership group is in hardwood forest types, while only 18 percent of the total acreage owned by forest industry is in hardwood forest types. Consequently, any forest practice regulations which will tend to impact timberlands stocked by hardwood forest types to a greater degree than all forest types in general will have a substantially disproportionate economic impact on nonindustrial private forest landowners.

Cumulative Effects: The costs to forest land owners of the proposed forest practice rules and regulations pertaining to cumulative effects are highly uncertain. To date, no watershed screening has been conducted in the state; there is no data on the general conditions of the resources pertaining to water, fish, and capital improvements of the state; WAUs have not been identified nor have WAUs which might have sensitive or potentially sensitive resource conditions; and conditioning forest practice prescriptions which might be used in sensitive or potentially sensitive WAUs have not been developed and compared to forest practice activities which might be applied in absence of the proposed rules and regulations.

It is expected that the costs to the forest land owner will be extensive, more so than with any of the other proposed forest practice rules and regulations. Higher administrative and operating costs should be expected, in addition to revenue losses from deferred timber harvests and reductions in long-term forest productivity. Higher planning and assessment, field design and layout, permit application and handling, field administration, and field monitoring costs will elevate general administrative costs. Operating costs associated with road layout, construction/reconstruction, maintenance, and abandonment will increase, as will logging and site clean up costs. Landowners will incur losses of revenue from short-term restrictions on the rate of harvest and harvest deferrals, as well as from areas set aside from full timber production.

The burden of cumulative effects proposals will probably be disproportionately higher on small landowners. To the extent that large landowners, with spatially [spartially] distributed land holdings, have options for

moving harvesting activities from areas of sensitive resource conditions to other areas or sites, the costs of cumulative effects proposals will be substantial, but can be constrained. However, small landowners with all of their ownership in an area of sensitive resource conditions might not have the flexibility of larger landowners. To the extent that proposals would preclude these landowners from operating on such areas, or would significantly reduce the activities, the economic impacts to these landowners could be substantial, if not catastrophic. This would be particularly true to those whose life savings, retirement plans, emergency medical insurance, and other estate plans are wrapped up in these investments.

Conclusions

The proposed forest practice regulations will directly affect more than 10 percent of businesses in at least three industries at the 3-digit SIC level. The potential compliance costs of meeting the proposed regulations will be substantial at best, if not debilitating to some small businesses (nonindustrial private landowners).

It is highly likely that the package of regulations as a whole, as well as particular elements of the package, will impose a disproportionate impact on small businesses since it is assumed that most compliance costs will be independent of the size, employment, or gross revenue of an affected business.

Hearing Location: Copperfield's (Tacoma Inn), 8726 South Hosmer, Tacoma, WA, on June 25, 1992, at 1:00 p.m. and 7:00 p.m. (2 hearings).

Submit Written Comments to: Ed Summerfield, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, by June 19, 1992.

Date of Intended Adoption: June 26, 1992.

May 20, 1992
Brian Boyle
Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-12-040 *ALTERNATE PLANS. All forest practice operations must comply with the act and further with the rules and regulations promulgated pursuant to the act, unless an alternate plan has been approved by the department. An applicant may submit an alternate plan for any or all of the activities described in the application. The department may approve an application which departs from the specific provisions of chapters ((~~222-24~~)) 222-22 through 222-38 WAC, provided that the plan must, in the determination of the department, equal or exceed the protection of public resources as provided in the Forest Practices Act and rules and regulations. The department shall provide an opportunity for comment to the departments of fisheries, wildlife, and ecology, other state agencies, and affected Indian tribes prior to approval of any alternate plan.

NEW SECTION

WAC 222-12-046 CUMULATIVE EFFECTS. The purpose of this section is to identify how the forest practices rules address changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices. This interaction is referred to as "cumulative effects." The following approaches have been taken:

(1) Title 222 WAC establishes minimum standards for all forest practices, regardless of the class of forest practice application.

(2) Forest practices which have a potential for a substantial impact on the environment are classified as Class IV-Special or Class IV-General by WAC 222-16-050 and receive an evaluation as to whether or not a detailed statement must be prepared pursuant to chapter 43-.21C RCW.

(3) Certain rules are designed to focus on specific aspects of cumulative effects of forest practices. For example:

(a) WAC 222-08-035 requires continuing review of the forest practices regulations and voluntary processes and adopts the concept of adaptive management. WAC 222-12-045 also adopts adaptive management.

(b) WAC 222-12-040 allows alternate plans that equal or exceed the protection of public resources as provided in the act and rule.

(c) WAC 222-24-050(1) allows the department to require road maintenance and abandonment plans for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources.

(d) WAC 222-30-025 addresses harvest unit size and separation requirements.

(e) Chapter 222-22 WAC addresses cumulative effects on the public resources of fish, water, and capital improvements of the state or its political subdivisions.

(f) Chapter 222-46 WAC establishes the enforcement policy for forest practices.

(4) The board is considering measures to further protect cultural resources and wildlife resources. The board shall continue consultation with the departments of ecology, fisheries, wildlife, natural resources, forest landowners, and federally recognized tribes on these resource issues.

AMENDATORY SECTION (Amending Order 551, Resolution No. 88-1, filed 9/21/88, effective 11/1/88)

WAC 222-12-090 FOREST PRACTICES BOARD MANUAL. When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fisheries, wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) ((~~Temperature sensitive determinations~~)) Method for determination of adequate shade requirements on streams needed for use with WAC 222-30-040.

(2) ((~~Procedures for leaving the required 50 percent or 75 percent shade as required in WAC 222-30-040.~~

~~(3) A list of "critical wildlife habitats" as established under WAC 222-16-010(11).~~

~~(4)~~)) The standard methods for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.

(((~~5~~))) (3) A chart for establishing recommended permanent culvert sizes and associated data.

(((~~6~~))) (4) Guidelines for clearing slash and debris from Type 4 and 5 Waters.

(((~~7~~))) (5) Guidelines for landing location and construction.

(((~~8~~))) (6) Guidelines for determining acceptable stocking levels.

(((~~9~~))) (7) Guidelines for calculating average widths of riparian management zones.

(8) Guidelines for wetland delineation.

(9) Guidelines for wetland replacement or substitution.

(10) A list of nonnative wetland plant species.

(11) The standard methodology, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC.

(12) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).

Guidelines required to be developed by these rules and other interpretive material may be published in tandem with the manual after review by the board or its committees, but do not require board approval unless otherwise specified in the rule.

AMENDATORY SECTION (Amending WSR 92-03-028, filed 1/8/92, effective 2/8/92)

WAC 222-16-010 GENERAL DEFINITIONS.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce and may be associated with open water.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber ((~~to accomplish specific purposes and includes pesticides, insecticides, rodenticides, plant growth regulators, fungicides, fertilizers, desiccants, fire retardants when used in controlled burning, repellents, oil, dust control agents (other than water), salt and other materials that may present hazards to the environment~~)) including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: PROVIDED, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical ((~~wildlife~~)) habitat (federal)" means the habitat of any threatened or endangered species((~~, as such habitat is established by the board in the forest practices board manual, or other situations as identified by the board, after consultation with the department of wildlife, where specific management practices are needed to prevent critical wildlife habitat destruction~~)) designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: PROVIDED, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: PROVIDED, That Christmas trees are forest trees and: PROVIDED FURTHER, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize disturbance of soils and vegetation during the yarding process. This includes the following:

Suspending at least one end of the log during yarding; and

Yarding during periods of low soil moisture or when the ground is frozen; and

Using equipment whose standard ground pressure is less than 7 pounds per square inch or equipment that typically uses a skid trail no more than twice, such as a hydraulic loader commonly referred to as a shovel.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products.

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Threatened or endangered species" ((~~applies to~~)) means all species of wildlife listed as "threatened" or "endangered" by the United States ((~~Fish and Wildlife Service, except any species which the Washington department of wildlife determines does not require special protection under the Forest Practices Act because conservation of the species is reasonably assured through a recovery and enhancement program or existence of an adequate population on lands where commercial forestry and land development are prohibited, or through other means. For this purpose, "wildlife" means all members of the animal kingdom except insects and benthic organisms~~)) Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as

well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-16-030 WATER TYPING SYSTEM. *The department in cooperation with the departments of fisheries, wildlife and ecology, and in consultation with affected Indian tribes shall classify streams, lakes and ponds and prepare stream classification maps showing the location of Type 1, 2, 3 and 4 Waters within the various forested areas of the state. Such maps shall be available for public inspection at area offices of the department. The waters will be classified using the following criteria((~~, except that these agencies may approve classifications of water segments which do not follow the criteria when substantiated evidence demonstrates that use of the criteria would result in incorrect classification of such water according to the definitions contained in WAC 222-16-020. When so requested by any affected landowners, applicant or aggrieved person,~~)). If a dispute arises concerning a water type the department shall make available informal conferences, which shall include the departments of fisheries, wildlife and ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

(1) "Type 1 Water" means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

(2) "Type 2 Water" ((~~classification shall be applied to~~)) shall mean segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are within a federal, state, local, or private campground having more than 30 camping units: PROVIDED, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(c) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high-water marks and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water.

(d) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a stream bearing salmonids and accessible during some period of the year; and

(ii) The off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

(3) "Type 3 Water" ((~~classifications shall be applied to~~)) shall mean segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have significant anadromous fish use:

(i) Stream segments having a defined channel of 5 feet or greater in width between the ordinary high-water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet.

(ii) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream.

(c) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:

(i) Stream segments having a defined channel of 10 feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.

(ii) Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water.

(d) Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

(4) "Type 4 Water" classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high-water marks. Their significance lies in their influence on water quality downstream in Type 1, 2, and 3 Waters. These may be perennial or intermittent.

(5) "Type 5 Water" classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; including streams with or without well-defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainageways having short periods of spring or storm runoff.

(6) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of parttime occupancy.

(c) "Resident game fish" means game fish as described in the Washington game code that spend their life cycle in fresh water. Steelhead, searun cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

(d) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(g) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps.

(h) "Intermittent streams" means those segments of streams that normally go dry.

NEW SECTION

WAC 222-16-035 WETLAND TYPING SYSTEM. *The department in cooperation with the departments of fisheries, wildlife, and ecology, and affected Indian tribes shall classify wetlands. The wetlands will be classified in order to distinguish those which require wetland management zones and those which do not. Wetlands which require wetland management zones shall be identified using the following

criteria. Accurate delineation of typed wetlands in accordance with the manual shall be required only where necessary to determine whether replacement or substitution is required pursuant to WAC 222-24-025(10). For the purposes of determining acreage to classify or type wetlands under this section, approximate determination using aerial photographs and maps, including the national wetlands inventory, shall be sufficient. In addition, for the purposes of determining the boundary of wetlands to measure wetland management zones, approximate delineation using the point where the crown cover changes from less than 30% to 30% or more shall be sufficient. Except where necessary to determine whether replacement or substitution is required pursuant to WAC 222-24-025(10), accurate delineation shall not be required under this Title 222 WAC for activities regulated by these rules, including but not limited to the location of roads, landings, culverts, and cross drains. Landowners are encouraged to leave vegetation in these forested wetlands in undisturbed leave areas where possible. When so requested by any affected landowners, applicant or aggrieved person, the department shall make available informal conferences, which shall include the departments of fisheries, wildlife, and ecology, and affected Indian tribes and those contesting the adopted wetland types. These conferences shall be established under procedures established in WAC 222-46-020.

(1) "Nonforested wetlands" means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of less than 30 percent.

(a) "Type A Wetland" classification shall be applied to all nonforested wetlands which:

(i) Are greater than 0.5 acre in size, including any acreage of open water where the water is completely surrounded by the wetland; and

(ii) Are associated with at least 0.5 acre of ponded or standing open water. The open water must be present on the site for at least 7 consecutive days between April 1 and October 1 to be considered for the purposes of these rules; or

(iii) Are bogs and fens greater than 0.25 acre.

(b) "Type B Wetland" classification shall be applied to all other nonforested wetlands greater than 0.25 acre.

(2) "Forested wetland" means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of 30 percent or more.

AMENDATORY SECTION (Amending WSR 91-23-052, filed 11/15/91, effective 12/16/91)

WAC 222-16-050 CLASSES OF FOREST PRACTICES. There are 4 classes of forest practices created by the act. ((~~These classes are listed below in the order most convenient for the applicant's use in determining into which class his operations fall:~~)) All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) "Class IV - special." Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

*(a) ((~~Aerial application of pesticides to an "area of water supply interest" as determined according to WAC 222-38-020 (5)(i).~~

~~(b) Harvesting, road construction, site preparation or aerial application of pesticides:~~

~~(i) On lands known to contain a breeding pair or the nest or breeding grounds of any threatened or endangered species; or~~

~~(ii) Within the critical habitat designated for such species by the United States Fish and Wildlife Service.~~

~~(c) Widespread use of DDT or a similar persistent insecticide.~~

~~(d)~~)) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as:

(i) Critical wildlife habitat (state) of threatened or endangered species; or

(ii) Critical habitat (federal) of threatened or endangered species except those excluded by the board under WAC 222-16-080(3).

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

*((~~(c)~~)) (d) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on slide prone areas as defined in WAC 222-24-020(6) and field verified by the department, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, when such slide prone areas occur on an uninterrupted slope above ((~~a Type 1, 2, 3 or 4~~)) water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or capital improvement of the state or its political subdivisions where there is potential for a substantial debris flow or mass failure to cause significant impact to public resources.

*(e) Timber harvest in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, on slide prone areas, field verified by the department, where soils, geologic structure, and local hydrology indicate that canopy removal has the potential for increasing slope instability, when such areas occur on an uninterrupted slope above any water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or a capital improvement of the state or its political subdivisions where there is a potential for a substantial debris flow or mass failure to cause significant impact to public resources.

(f) Timber harvest, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation, as high avalanche hazard.

(g) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

*(h) Forest practices subject to a watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

*(i) Filling or draining of more than 0.5 acre of a wetland.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or 3 Water, ((~~or~~)) the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

*(d) Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline

area of a Type 1 Water, the riparian management zone of a Type 2 or Type 3 Water, ((or)) the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type 1 Water, the riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

*(o) Ground application of chemicals. (See WAC 222-38-020 and 222-38-030.)

*(p) Aerial application of chemicals (except insecticides) when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type 1 Water or the riparian management zone of a Type 2 or 3 Water, or within the ordinary high-water mark of a Type 4 Water or flowing Type 5 Water, and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. An hydraulics project approval from the Washington department of wildlife or the Washington department of fisheries or the appropriate Indian tribe may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: PROVIDED, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal.

*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, ((or)) within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

*(d) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, ((or)) within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

Salvage of logging residue.

*(e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, ((or)) within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III" forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

*(b) Those within the shorelines of the state other than those in a Class I forest practice.

*(c) Aerial application of insecticides, except where classified as a Class IV forest practice.

*(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

*(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

*(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

*(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

*(n) Any filling of wetlands, except where classified as Class IV forest practices.

NEW SECTION

WAC 222-16-070 PESTICIDE USES WITH THE POTENTIAL FOR A SUBSTANTIAL IMPACT ON THE ENVIRONMENT. *To identify forest practices involving pesticide uses that have the potential for a substantial impact on the environment, the department shall apply the process prescribed in this section.

(1) Pesticide list – The department shall maintain a list of all pesticides registered under chapter 15.58 RCW for use in forest practices. The department shall conduct, in consultation with the departments of ecology, health, agriculture, and wildlife, an annual review of the list for the purpose of including new pesticides and/or removing those pesticides which have been prohibited from use. The list shall be available

to the public at each of the department's offices. A list of the department's offices and their addresses appears at WAC 332-10-030. In preparing the pesticide list, the department shall include information on the following characteristics:

(a) Active ingredients, name brand or trade mark, labeled uses, pesticide type, EPA-registration number;

(b) Toxicity of the pesticide based on the Environmental Protection Agency (EPA) label warning under 40 C.F.R. 156.10 (h)(1), listed as "caution," "warning," "danger," or "danger - poison" except as modified to consider aquatic or mammalian toxicity; and

(c) Whether the pesticide is a state restricted use pesticide for the protection of ground water under WAC 16-228-164(1).

(2) Key for evaluating applications. To determine whether aerial application of a pesticide has the potential for a substantial impact on the environment, the department shall apply the following analysis:

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED CHEMICALS

| Question | Question | Resp | Action |
|---|---|---|---|
| 1 (a) | Is the pesticide on the pesticide list (WAC 222-16-070(1))? | Yes<br>No | go to 2<br>go to 1(b) |
| 1 (b) | Is the pesticide being used under a Dept of Agriculture Experimental Use Permit (WAC 16-228-125)? | Yes<br>No | Class III<br>Class IV Sp |
| 2 | Is the toxicity rating for the pesticide to be used "Danger -Poison" as designated in the pesticide list (WAC 222-16-070(1)(b))? | Yes<br>No | Class IV Sp<br>go to 3(a) |
| 3 (a) | Is Bacillus thuringiensis (BT) the only pesticide being used on this application? | Yes<br>No | go to 3(b)<br>go to 4(a) |
| 3 (b) | Is there a Threatened or Endangered species or the critical habitat (Federal) or critical wildlife habitat (State) of a species within the application area that is susceptible to the BT strain being used? | Yes<br>No | Class IV Sp<br>Class III |
| 4 (a) | Is this operation occurring over ground water with a high susceptibility to contamination as specified in EPA 910/ 9-87-189 or in documentation provided by the department of ecology? | Yes<br>No | go to 4(b)<br>go to 5(a) |
| 4 (b) | Is this pesticide a state restricted use pesticide for the protection of ground water under WAC 16-228-164 (1) | Yes<br>No | Class IV Sp<br>go to 5(a) |
| 5 (a) | Is the operation adjacent (within 100 ft.) to surface water? | Yes<br>No | go to 5(b)<br>go to 5(e) |
| 5 (b) | Determine the toxicity rating from the pesticide list:<br>* Is the toxicity rating "Caution" or "Warning"?<br>* Is the toxicity rating "Danger"? | <br>Yes<br>Yes | <br>go to 5(c)<br>go to 5(d) |
| 5 (c) | Is there a Group A or B water surface water system (WAC 246-290-020)intake OR a fish hatchery intake within one half mile downstream of the operation? | Yes<br>No | Class IV Sp<br>go to 5(e) |
| 5 (d) | Is there a Group A or B water surface system intake OR a fish hatchery intake within 1 mile downstream of the operation? | Yes<br>No | Class IV Sp<br>go to 5(e) |
| 5 (e) | Is the operation within 200 feet of the intake of a Group A or B spring water system? | Yes<br>No | Class IV Sp<br>go to 5(f) |
| 5 (f) | Is the operation applying a pesticide in a Type A or B wetland? | Yes<br>No | Class IV Sp<br>go to 6(a) |
| 6 (a) | Does any portion of the planned operation cover 240 or more contiguous acres? Pesticide treatment units will be considered contiguous if they are separated by less than 300 feet or treatment dates of adjacent units are less than 90 days apart. | Yes<br>No | Class IV Sp<br>go to 6(b) |
| 6 (b) | Is there a Threatened or Endangered species or the critical habitat (Federal) or critical wildlife habitat (State) of a species within the application area. | Yes<br>No | Class IV Sp<br>go to 6(c) |
| 6 (c) | If there is a special concern identified for this pesticide in the Board manual, does it apply to this application? | Yes<br>No | Class IV Sp<br>Class III |

(3) Special concerns (see WAC 222-16-070 (2)6(c) shall be evaluated by the department of agriculture. Information regarding special concerns shall be presented to the board for review. Approved special concerns shall be included in the board's manual. Special concerns shall include situations where use of pesticides has the potential for a substantial impact on the environment, beyond those covered specifically in the key in subsection (2) of this section.

NEW SECTION

WAC 222-16-080 CRITICAL WILDLIFE HABITATS (STATE) AND CRITICAL HABITAT (FEDERAL) OF THREATENED AND ENDANGERED SPECIES. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald Eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray Wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly Bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain Caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - Effective December 1, 1992, harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife. Prior to the above effective date, the department shall determine what constitutes critical wildlife habitat (state) for spotted owls in consultation with the department of wildlife. The department's determination shall be limited to harvesting, road construction, or aerial application of pesticides, on lands known to contain Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and shall be changed as necessary upon completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species by the wildlife commission. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be

added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or Section 4(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (Federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 222-16-020 WATER CATEGORIES.

## Chapter 222-22 WAC
## WATERSHED ANALYSIS

NEW SECTION

WAC 222-22-010 POLICY. (1) Public resources may be adversely affected by the interaction of two or more forest practices. The purpose of this rule is to address these cumulative effects of forest practices on the public resources of fish, water, and capital improvements of the state or its political subdivisions. The long-term objective of this rule is to protect and restore these public resources and the productive capacity of fish habitat adversely affected by forest practices while maintaining a viable forest products industry. The board intends that this be accomplished through prescriptions designed to protect and allow the recovery of fish, water, and capital improvements of the state or its political subdivisions, through enforcement against noncompliance of the forest practice rules in this Title 222 WAC, and through voluntary mitigation measures. This system also allows for monitoring, subsequent watershed analysis, and adaptive management.

(2) Adaptive management in a watershed analysis process requires advances in technology and cooperation among resource managers. The board finds that it is appropriate to promulgate rules to address certain cumulative effects by means of the watershed analysis system, while recognizing the pioneering nature of this system and the need to monitor its success in predicting and preventing adverse change to fish, water, and capital improvements of the state and its political subdivisions.

(3) Many factors other than forest practices can have a significant effect on the condition of fish, water, and capital improvements of the state or its political subdivisions. Nonforest practice contributions to cumulative effects should be addressed by the appropriate jurisdictional authorities. When a watershed analysis identifies a potential adverse effect on fish, water, and capital improvements of the state or its political subdivisions from activities that are not regulated under chapter 76.09 RCW, the department should notify any governmental agency or Indian tribe having jurisdiction over those activities.

(4) The rules in this chapter set forth a system for identifying the probability of change and the likelihood of this change adversely affecting specific characteristics of fish, water, and capital improvements of the state or its political subdivisions, and for using forest management prescriptions to avoid or minimize significant adverse effects from forest practices. The rules in this chapter are in addition to, and do not take the place of, the other forest practices rules in this Title 222 WAC.

(5) These rules are intended to be applied and should be construed in such a manner as to minimize the delay associated with the review of individual forest practice applications and notifications by increasing the predictability of the process and the appropriate management response.

NEW SECTION

WAC 222-22-020 WATERSHED ADMINISTRATIVE UNITS. (1) For purposes of this chapter, the state is divided into areas known as watershed administrative units (WAUs). The department shall, in cooperation with the departments of ecology, fisheries, and wildlife, federally recognized Indian tribes, local government entities, forest land owners, and the public, define WAUs throughout the state. The department shall identify WAUs on a map.

(2) WAUs should generally be between 10,000 to 50,000 acres in size and should be discrete hydrologic units. The board recognizes, however, that identified watershed processes and potential effects on resource characteristics differ, and require different spatial scales of analysis, and the department's determination of the WAUs should recognize these differences. The board further recognizes that mixed land uses will affect the ability of a watershed analysis to predict probabilities and identify causation as required under this chapter, and the department's conduct and approval of a watershed analysis under this chapter shall take this effect into account.

(3) The department is directed to conduct periodic reviews of the WAUs adopted under this chapter to determine whether revisions are needed to more efficiently assess potential cumulative effects. The department shall consult the departments of ecology, fisheries, and wildlife, affected Indian tribes, forest land owners, local government entities, and the public. From time to time and as appropriate, the department shall make recommendations to the board regarding revision of watershed administrative units.

NEW SECTION

WAC 222-22-030 QUALIFICATION OF WATERSHED RESOURCE ANALYSTS, SPECIALISTS, AND FIELD MANAGERS. (1) The department shall set the minimum qualifications for analysts participating in level 1 assessments conducted under WAC 222-22-050, for specialists participating in level 2 assessments conducted under WAC 222-22-060, and for field managers participating in recommendation of prescriptions under WAC 222-22-070. The minimum qualifications shall be specific for the disciplines needed to participate in level 1 and level 2 assessments and in the recommendations of prescriptions, and shall include, at a minimum, formal education in the relevant discipline and field experience. Minimum qualifications for analysts participating in level 2 assessments should typically include a graduate degree in the relevant discipline.

(2) The department shall coordinate with relevant state and federal agencies, affected Indian tribes, forest land owners, local government entities, and the public to seek and utilize available qualified expertise to participate in watershed analysis.

(3) Qualified analysts, specialists, and field managers shall, while and only for the purpose of conducting a watershed analysis or monitoring in a WAU, be duly authorized representatives of the department for the purposes of RCW 76.09.150.

(4) An individual may qualify in more than one science or management skill. Qualification under subsection (1) of this section shall be effective for 5 years. When a qualification expires, a person requesting requalification shall meet the criteria in effect at the time of requalification.

(5) The department shall provide and coordinate training for, maintain a register of, and monitor the performance of qualified analysts, specialists, and field managers by region. The department shall disqualify analysts, specialists, and field managers who fail to meet the levels of performance required by the qualification standards.

NEW SECTION

WAC 222-22-040 WATERSHED PRIORITIZATION. (1) The department shall determine, by region, the order in which it will analyze WAUs. The department shall cooperate with the departments of ecology, wildlife, and fisheries, affected Indian tribes, forest land owners, and the public in setting priorities. In setting priorities or reprioritizing WAUs, the department shall consider the availability of participation and assistance that may be provided by affected Indian tribes and local government entities.

(2) Except as set forth in subsection (3) of this section, the department shall undertake a watershed analysis on each WAU, in the order established under subsection (1) of this section.

(3) The owner or owners of ten percent or more of the nonfederal forest land acreage in a WAU may notify the department in writing that the owner or owners intend to conduct a level 1 assessment, level 2 assessment, or both, and the prescription recommendation process on the WAU under this chapter at their own expense. The notice shall identify the teams proposed to conduct the watershed analysis, which shall be comprised of individuals qualified by the department pursuant to WAC 222-22-030. The department shall promptly notify any owner or owners sending notice under this subsection if any member of the designated teams is not so qualified. Within 30 days of delivering a notice to the department under this subsection, the forest land owner or owners shall begin the level 1 assessment under WAC 222-22-050 or, at its option, the level 2 assessment under WAC 222-22-060. An approved forest land owner team shall, while and only for the purposes of conducting a watershed analysis in a WAU, be a duly authorized representative of the department for the purposes of RCW 76.09.150. The board encourages forest land owners conducting assessments under this chapter to include available, qualified expertise from state and federal agencies, affected Indian tribes, forest land owners, local government entities, and the public.

(4) Before beginning an analysis in a WAU, the department or the forest land owner conducting the analysis shall provide reasonable notice, including notice by regular United States mail where names and addresses have been provided to the department, to all forest land owners in the WAU, and to affected Indian tribes. The department or the forest land owner shall provide reasonable notice to the public and to state, federal, and local government entities, by, among other things, posting the notice conspicuously in the office of the departmental region containing the WAU. The notice shall be in a form designated by the department and give notice that an analysis is being conducted, by whose team, the time period of the analysis, and the dates and locations in which the draft analysis will be available for review and comment.

NEW SECTION

WAC 222-22-050 LEVEL 1 WATERSHED RESOURCE ASSESSMENT. (1) To begin a watershed resource analysis on a WAU, the department shall assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1). A forest land owner or owners acting under WAC 222-22-040(3) may assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1) or, at its option, may begin the analysis under WAC 222-22-060. Each level 1 team shall include persons qualified in the disciplines indicated as necessary in the methodology, and should generally include persons qualified in:

(a) Forestry;

(b) Forest hydrology;

(c) Forest soil science or geology;

(d) Fisheries science; and

(e) Geomorphology.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense.

(2) The level 1 team shall perform an inventory of the WAU utilizing the methodology, indices of resource condition, and checklists set forth in the manual in accordance with the following:

(a) The team shall survey the WAU for fish, water, and capital improvements of the state or its political subdivisions and shall display their location on a map of the WAU. The team shall determine the current condition of the resource characteristics of these resources, shall classify their condition as "good," "fair," or "poor," and shall display this information on the map of the WAU. The criteria used to determine current resource conditions shall include indices of resource condition, in addition to such other criteria as may be included in the manual. The indices will include two levels, which will distinguish between good, fair, and poor conditions.

(b) The team shall assess the likelihood that identified watershed processes in a given physical location will be adversely changed by one forest practice or by cumulative effects and that, as a result, a material amount of water, wood, sediment, or energy (e.g., affecting temperature) will be delivered to fish, water, or capital improvements of the state or its political subdivisions. (This process is referred to in this chapter as "adverse change and deliverability.") (For example, the team will address the likelihood that road construction will result in mass wasting and a slide that will in turn reach a stream.) The team shall rate this likelihood of adverse change and deliverability as "high," "medium," "low," or "indeterminate." Those likelihoods rated high, medium, or indeterminate shall be displayed on the map of the WAU.

(c) For each instance of high, medium, or indeterminate likelihood of adverse change and deliverability identified under (b) of this subsection, the team shall assess the vulnerability of potentially affected resource characteristics. Criteria for resource vulnerability shall include indices of resource condition as described in (a) of this subsection and quantitative means to assess the likelihood of material adverse effects to resource characteristics caused by forest practices. (For example, the team will assess the potential damage that increased sediment caused by a slide reaching a stream will cause to salmon spawning habitat that is already in fair or poor condition.) The team shall rate this vulnerability "high," "medium," "low," or "indeterminate" and shall display those vulnerabilities on the map of the WAU. If there are no other criteria in the manual to assess vulnerability at the time of the assessment, current resource condition shall be used, with good condition equivalent to low vulnerability, fair condition equivalent to medium vulnerability, and poor condition equivalent to high vulnerability.

(d) The team shall identify as areas of resource sensitivity, as provided in table 1 of this section, the locations in which a management response is required under WAC 222-22-070(3) because, as a result of one forest practice or of cumulative effects, there is a combination of a high, medium, or indeterminate likelihood of adverse change and deliverability under (b) of this subsection and a low, medium, high, or indeterminate vulnerability of resource characteristics under (c) of this subsection:

Table 1
AREAS OF RESOURCE SENSITIVITY AND MANAGEMENT RESPONSE

| Vulnerability | Likelihood of Adverse Change and Deliverability: Low | Medium | High |
|---|---|---|---|
| Low | Standard rules | Standard rules | Response: Prevent or avoid |
| Medium | Standard rules | Response: Minimize | Response: Prevent or avoid |
| High | Standard rules | Response: Prevent or avoid | Response: Prevent or avoid |

The team shall display the areas of resource sensitivity on the map of the WAU.

(e) The decision criteria used to determine low, medium, and high likelihood of adverse change and deliverability shall be as set forth in the manual. A low designation generally means there is minimal likelihood that there will be adverse change and deliverability. A medium designation generally means there is a significant likelihood that there will be adverse change and deliverability. A high designation generally

means that adverse change and deliverability is more likely than not with a reasonable degree of confidence. Any areas identified as indeterminate in the level 1 assessment shall be classified for the purposes of the level 1 assessment as medium until a level 2 assessment is done on the WAU under WAC 222-22-060, during which the uncertainties shall be resolved.

(f) The team shall prepare a causal mechanism report regarding the relationships of each process identified in (b) and (c) of this subsection. The report shall demonstrate that the team's determinations were made in accordance with the manual. If, in the course of conducting a level 1 assessment, the team identifies areas in which voluntary corrective action will significantly reduce the likelihood of material, adverse effects to the condition of a resource characteristic, the team shall include this information in the report, and the department shall convey this information to the applicable land owner.

(3) Within 21 days of mailing notice under WAC 222-22-040(4), the level 1 team shall submit to the department its draft level 1 assessment, which shall consist of the map of the WAU marked as set forth in this section and the causal mechanism report proposed under subsection (2)(f) of this section. If the level 1 team is unable to agree as to one or more resource sensitivities or potential resource sensitivities, or the casual mechanism report, alternative designations and an explanation therefor shall be included in the draft assessment. Where the draft level 1 assessment delivered to the department contains alternative designations, the department shall within 21 days of the receipt of the draft level 1 assessment make its best determination and approve that option which it concludes most accurately reflects the proper application of the methodologies, indices of resource condition, and checklists set forth in the manual.

(4) If the level 1 assessment contains any areas in which the likelihood of adverse change and deliverability or resource vulnerability are identified as indeterminate under this section or if the level 1 methodology recommends it, the department shall assemble a level 2 assessment team under WAC 222-22-060 to resolve the uncertainties in the assessment, unless a forest land owner acting under WAC 222-22-040(3) has conducted a level 2 assessment on the WAU.

(5) Pending the completion of the level 2 assessment, if any, on the WAU, the department shall select interim prescriptions using the process and standards described in WAC 222-22-070 (1), (2), and (3) and 222-22-080(3) and shall apply them to applications and notifications as provided in WAC 222-22-090 (1) and (2). Before submitting recommended interim prescriptions to the department, the field managers' team under WAC 222-22-070(1) shall review the recommended prescriptions with available representatives of the jurisdictional management authorities of the fish, water, and capital improvements of the state or its political subdivisions in the WAU, including, but not limited to, the departments of fisheries, ecology, and affected Indian tribes.

NEW SECTION

WAC 222-22-060 LEVEL 2 WATERSHED RESOURCE ASSESSMENT. (1) The department, or forest land owner acting under WAC 222-22-040(3), may assemble a level 2 assessment team either, in the case of a forest land owner, to begin a watershed analysis or to review the level 1 assessment on a WAU. The level 2 team shall consist of specialists qualified under WAC 222-22-030(1). Each level 2 team shall include persons qualified in the disciplines indicated as necessary in the methodology, and should generally include persons qualified in:

(a) Forestry;
(b) Forest hydrology;
(c) Forest soil science or geology;
(d) Fisheries science; and
(e) Geomorphology.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to designate one qualified member of the team at its own expense.

(2) The level 2 team shall perform an assessment of the WAU utilizing the methodology, indices of resource condition, and checklist set forth in the manual in accordance with the following:

(a) If a level 1 assessment has not been conducted under WAC 222-22-050, the assessment team shall complete the tasks required under WAC 222-22-050(2), except that the level 2 team shall not rate any likelihood of adverse change and deliverability or resource vulnerability as indeterminate.

(b) If the level 2 team has been assembled to review a level 1 assessment, the level 2 team shall, notwithstanding its optional review of all or part of the level 1 assessment, review each likelihood of adverse change and deliverability and resource vulnerability rated as indeterminate and shall revise each indeterminate rating to low, medium, or high and shall revise the map of the WAU accordingly.

(3) Within 60 days of mailing notice under WAC 222-22-040(4) where a watershed analysis begins with a level 2 assessment or within 60 days of beginning a level 2 assessment after completion of a level 1 assessment, the level 2 team shall submit to the department its draft level 2 assessment, which shall consist of the map of the WAU and the causal mechanism report.

(4) The level 2 team shall endeavor to produce a consensus report. If the level 2 team is unable to agree as to one or more areas of resource sensitivity or the casual mechanism report, alternative designations and an explanation therefor shall be included in the draft assessment. Where the draft level 2 assessment delivered to the department contains alternative designations or reports, the department shall within 30 days of the receipt of the draft level 2 assessment make its best determination and approve that option which it concludes most accurately reflects the proper application of the methodologies, indices of resource condition, and checklists set forth in the manual.

NEW SECTION

WAC 222-22-070 PRESCRIPTION RECOMMENDATION. (1) For each WAU for which a watershed analysis is undertaken, the department, or forest land owner acting under WAC 222-22-040(3), shall assemble a team of field managers qualified under WAC 222-22-030(1). The team shall include persons who shall be qualified in:

(a) Forest resource management;
(b) Forest harvest and road systems engineering;
(c) Forest hydrology; and
(d) Fisheries science or management.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense.

(2) Each forest land owner in a WAU shall have the right to submit to the department or the forest land owner conducting the watershed analysis prescriptions for areas of resource sensitivity on its land. If these prescriptions are received within the time period described in subsection (4) of this section, they shall be considered for inclusion in the watershed analysis.

(3) For each identified area of resource sensitivity, the field managers' team shall, in consultation with the level 1 and level 2 teams, if any, select and recommend to the department prescriptions. These prescriptions shall be reasonably designed to minimize, or to prevent or avoid, as set forth in table 1 in WAC 222-22-050 (2)(d), the likelihood of adverse change and deliverability that has the potential to cause a material, adverse effect to resource characteristics in accordance with the following:

(a) The prescriptions shall be designed to provide forest land owners and operators with as much flexibility as is reasonably possible while addressing the area of resource sensitivity. The prescriptions should, where appropriate, include, but not be limited to, plans for road abandonment, orphaned roads, and road maintenance and plans for applying prescriptions to recognized land features identified in the WAU as areas of resource sensitivity but not fully mapped;

(b) Each set of prescriptions shall provide for an option for an alternate plan under WAC 222-12-040, which the applicant shows meets or exceeds the protection provided by the other prescriptions approved for a given area of resource sensitivity; and

(c) The regulation of forest practices and cumulative effects under this chapter shall not require mitigation for activities or events not regulated under chapter 76.09 RCW. Any hazardous condition subject to forest practices identified in a watershed analysis requiring corrective action shall be referred to the department for consideration under RCW 76.09.300 et seq.

(4) The field managers' team shall submit the recommended prescriptions to the department within 30 days of the submission to the department of the level 2 assessment under WAC 222-22-060 or within 21 days of the submission to the department of the level 1 assessment under WAC 222-22-050.

NEW SECTION

WAC 222-22-080 APPROVAL OF WATERSHED ANALYSIS. (1) Upon receipt of the recommended prescriptions resulting from a level 2 assessment under WAC 222-22-060 or a level 1 assessment under WAC 222-22-050 where a level 2 assessment will not be conducted, the department shall select prescriptions. The department shall circulate the draft watershed analysis to the departments of ecology, fisheries, and wildlife, affected Indian tribes, local government entities, forest land owners in the WAU, and the public for review and comment. The prescriptions recommended by the field managers' team shall be given substantial weight. Within thirty days of receipt of the prescriptions, the department shall review comments, revise the watershed analysis as appropriate, and approve or disapprove the watershed analysis for the WAU.

(2) The department should notify any governmental agency or Indian tribe having jurisdiction over activities which are not regulated under chapter 76.09 RCW but which are identified in the draft analysis as having a potential for an adverse impact on identified fish, water, and capital improvements of the state or its political subdivisions.

(3) The department shall approve the draft watershed analysis unless it finds:

(a) For any level 1 assessment or level 2 assessment, that:

(i) The team failed in a material respect to apply the methodology, indices of resource condition, or checklists set forth in the manual; or

(ii) A team meeting the criteria promulgated by the department and using the defined methodologies, indices of resource conditions, and checklists set forth in the manual could not reasonably have come to the conclusions identified in the draft level 1 or level 2 assessment; and

(b) For the prescriptions, that they will not accomplish the purposes and policies of this chapter and of the Forest Practices Act, chapter 76.09 RCW.

(c) In making its findings under this subsection, the department shall take into account its ability to revise assessments under WAC 222-22-090(3).

(4) If the department does not approve the draft watershed analysis, it shall set forth in writing a detailed explanation of the reasons for its disapproval.

NEW SECTION

WAC 222-22-090 USE AND REVIEW OF WATERSHED ANALYSIS. (1) Where a watershed analysis has been completed for a WAU under this chapter:

(a) Forest practices applications and notifications submitted to the department shall indicate whether an area of resource sensitivity will be affected and, if so, which prescription the operator, timber owner, or forest land owner shall use in conducting the forest practice in the area of resource sensitivity;

(b) The department shall assist operators, timber owners, and forest land owners in obtaining governmental permits required for the prescription (see WAC 222-50-020 and 222-50-030);

(c) The department shall confirm that the prescription selected under (a) of this subsection was one of the prescriptions approved for the area of resource sensitivity under WAC 222-22-080 and shall require the use of the prescription; and

(d) The department shall not further condition forest practice applications and notifications in an area of resource sensitivity in a WAU where the applicant will use a prescription contained in the watershed analysis nor shall the department further condition forest practice applications and notifications outside an area of resource sensitivity in a WAU, except for reasons other than the watershed processes and fish, water, and capital improvements of the state or its political subdivisions analyzed in the watershed analysis in the WAU, and except to correct mapping errors, misidentification of soils, landforms, vegetation, or stream features, or other similar factual errors.

(2) Pending completion of a watershed analysis for a WAU, the department shall process forest practices notifications and applications in accordance with the other chapters of this title, except that applications and notifications received for forest practices on a WAU after the date notice is mailed under WAC 222-22-040(4) commencing a watershed analysis on the WAU shall be conditioned to require compliance with interim, draft, and final prescriptions, as available. Processing and approval of applications and notifications shall not be delayed by reason of review, approval, or appeal of a watershed analysis.

(3) The board encourages cooperative and voluntary monitoring. Evaluation of resource conditions may be conducted by qualified specialists, analysts, and field managers as determined under WAC 222-22-030. Subsequent watershed analysis and management strategies in response to areas where recovery is not occurring shall be conducted in accordance with this chapter.

(4) Where the condition of resource characteristics in a WAU are fair or poor, the department shall evaluate the effectiveness of the prescriptions applied under this chapter to the WAU in providing for the protection and recovery of the resource characteristic. If the department finds that the prescriptions are not providing for such protection and recovery over a period of 3 years, the department shall repeat the watershed analysis in the WAU. Aside from the foregoing, once a watershed analysis is completed on a WAU, it shall be revised in whole or in part upon the earliest of the following to occur:

(a) Five years after the date the watershed analysis is final, if necessary;

(b) The occurrence of a natural disaster having a material adverse effect on the resource characteristics of the WAU;

(c) Deterioration in the condition of a resource characteristic in the WAU measured over a 12-month period or no improvement in a resource characteristic in fair or poor condition in the WAU measured over a 12-month period unless the department determines, in cooperation with the departments of ecology, wildlife, and fisheries, affected Indian tribes, forest land owners, and the public, that a longer period is reasonably necessary to allow the prescriptions selected to produce improvement; or

(d) The request of an owner of forest land in the WAU which wishes to conduct a watershed analysis at its own expense.

Revision of an approved watershed analysis shall be conducted in accordance with the processes, methods, and standards set forth in this chapter, except that the revised watershed analysis shall be conducted only on the areas affected in the case of revisions under (b) or (c) of this subsection, and may be conducted on areas smaller than the entire WAU in the case of revisions under (a) and (d) of this subsection. The areas on which the watershed analysis revision is to be conducted shall be determined by the department and clearly delineated on a map before beginning the assessment revision. Forest practices shall be conditioned under the current watershed analysis pending the completion of any revisions.

NEW SECTION

WAC 222-22-100 APPLICATION REVIEW PRIOR TO WATERSHED ANALYSIS. The watershed analysis system established in this chapter is a principal but for assessing the effects on fish, water, and capital improvements of the state or its political subdivisions of two or more forest practices. Recognizing that it will not be possible to achieve state-wide implementation of the analysis process for all WAUs for some time, the board hereby establishes certain interim regulatory measures pending watershed analysis on a given WAU. These measures are designed to ensure use of the best available analysis techniques and existing authorities to protect fish, water, and capital improvements of the state or its political subdivisions.

(1) The department shall continue to use its implementation and enforcement authority to prevent damage to fish, water, and capital improvements of the state or its political subdivisions. See chapter 222-46 WAC.

(a) The department shall continue to concentrate and exercise its authority in implementing the use of existing road construction, maintenance, and abandonment rules where there is evidence of road-related damage to fish, water, and capital improvements of the state or its political subdivisions. The applicable road construction and maintenance rules can be found in chapter 222-24 WAC.

(b) The department shall report to the board each quarter the results of its road construction, maintenance, and abandonment enforcement program. No later than October 31 of each year, the board shall report on results and recommendations for regulatory change as needed to protect fish, water, and capital improvements of the state or its political subdivisions.

(2) The department shall condition the size of clearcut harvest applications in the significant rain-on-snow zone where the department determines, using local evidence, that peak flows have resulted in material damages to public resources. The department may prepare conditioning guidelines to assess and condition applications located in a significant rain-on-snow zone.

(a) Each year not later than August 31, the department shall provide a summary report of actions taken under rain-on-snow conditioning or conditioning guidelines to the appropriate board committee.

(b) Such conditioning authority shall expire upon completion of watershed analysis in a WAU.

(c) Nothing in this section shall require a watershed analysis to develop harvest size recommendations.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-010 POLICY. *(1) A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife and essential functions in the protection of water quality. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems.

(2) All road and landing construction within wetlands shall be conducted so that choices are made in the following descending order of preference:

(a) Avoid impacts by selecting the least environmentally damaging road or landing location; or

(b) Minimize impacts by such things as reducing the subgrade width, fill acreage and spoil areas; or

(c) Restore affected areas by removing temporary fills or road sections upon the completion of the project; or

(d) Reduce or eliminate impacts over time by preserving or maintaining areas; or

(e) Replace affected areas by creating new wetlands or enhancing existing wetlands.

(3) An accurate delineation of wetland boundaries shall not be required under this section except where necessary to determine acreage of road or landing construction which fills or drains more than 0.5 acre of a wetland. Landowners are encouraged to voluntarily increase wetland acreage and functions over the long-term.

(4) Extra protection is required during road construction and maintenance to protect ((~~this habitat~~)) these resources and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate to develop road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction.

(5) This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges, stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.

(Note: Other laws and regulations and/or permit requirements may apply. See chapter 222-50 WAC.)

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-020 ROAD LOCATION. (1) Fit the road to the topography so that a minimum of alterations to the natural features will occur.

*(2) Minimize roads along or within narrow canyons ((~~and along~~)), riparian management zones, ((~~wet meadows and marshes~~)) wetlands and wetland management zones.

(a) Except where crossings are necessary, roads shall not be located within natural drainage channels and riparian management zones when there would be substantial loss or damage to wildlife habitat unless ((~~adequate mitigation of damage to public resources is provided and~~)) the department has determined that alternatives will cause greater damage to public resources.

(b) Roads shall not be located in ((~~marshes or wet meadows~~)) wetlands when there would be substantial loss or damage to ((~~wildlife habitat~~)) wetland functions or acreage unless ((~~adequate mitigation of damage to public resources is provided and~~)) the department has determined that alternatives will cause greater damage to public resources.

(c) Approximate determination of wetland boundaries shall not be required for the purpose of avoidance during design and construction of roads. Landowners should attempt to minimize road length concurrently with the attempt to avoid wetlands. Delineation shall be required to determine the length of road constructed within a wetland in order to determine acreage when replacement of a wetland is required or when subgrade widths should be narrowed to minimize impacts.

*(3) Minimize the number of stream crossings.

*(4) Whenever practical, cross streams at right angles to the main channel.

(5) Avoid duplicative roads by keeping the total amount of construction to a minimum. Use existing roads whenever practical and avoid isolating patches of timber which, when removed, may require unnecessary road construction.

*(6) Where feasible, do not locate roads on excessively steep or unstable slopes or known slide prone areas as determined by the department. The department shall determine whether slopes are unstable using available soils information, or from evidence of geologically recent slumps or slides, or where the natural slope exceeds the angle of repose for the particular soil types present, or where springs or seeps may indicate unstable conditions are present in or above the construction site.

Essential road construction will be accomplished by end hauling, over hauling, or other special road construction techniques unless the department determines there is potential for damage to public resources under WAC 222-16-050 (1)(e).

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-025 ROAD DESIGN. (1) Use the minimum design standard that produces a road sufficient to carry the anticipated traffic load with reasonable safety.

*(2) Subgrade width should average not more than 32 feet for double lane roads and 20 feet for single lane roads, exclusive of ditches, plus any additional width necessary for safe operations on curves and turnouts. Where road location in wetlands is unavoidable, minimize subgrade width.

(3) Balance excavation and embankments so that as much of the excavated material as is practical will be deposited in the roadway fill sections. Where full bench construction is necessary, design suitable embankments so that the excavated material may be end hauled to appropriate deposit areas.

(4) Design or construct cut and fill slopes to the normal angle of repose for the materials involved, or at a lesser angle whenever practical.

*(5) All roads should be outsloped or ditched on the uphill side and appropriate surface drainage shall be provided by the use of adequate cross drains, ditches, drivable dips, relief culverts, water bars, diversion ditches, or other such structures demonstrated to be equally effective.

*(6) Cross drains, relief culverts, and diversion ditches shall not discharge onto erodible soils, or over fill slopes unless adequate outfall protection is provided.

*(7) Install cross drains, culverts, water bars, drivable dips, or diversion ditches on all forest roads to minimize erosion of the road bed, cut bank, and fill slope, or to reduce sedimentation of Type 1, 2, 3 or 4 Water. Cross drains are required in wetlands to provide for continued hydrologic connectivity. These drainage structures shall be installed at all natural drainages, all low points in the road gradient and spaced no wider than as follows:

| Grade | Distance Westside | Distance Eastside |
|---|---|---|
| 0 to 7% | 1,000 ft. | 1,500 ft. |
| 8% to 15% | 800 ft. | 1,000 ft. |
| over 15% | 600 ft. | 800 ft. |

More frequent culvert spacing or other drainage improvements are required where site specific evidence of peak flows or soil instability makes additional culverts necessary to minimize erosion of the road bed, ditches, cut bank, and fill slope to reduce sedimentation of Type 1, 2, 3 or 4 Waters, or within wetlands or to avoid unreasonable risk to public resources. See Part 5, Table 2 in the forest practices board manual for "Additional culvert spacing recommendations." On request of the applicant, the department may approve less frequent drainage spacing where parent material (e.g. rock, gravel) or topography justify.

*(8) Relief culverts installed on forest roads shall meet the following minimum specifications:

(a) Be at least ((~~12~~)) 18 inches in diameter or equivalent.

(b) Be installed sloping toward the outside edge of the road at a minimum gradient of 3 percent.

*(9) Ditch diversion. Where roadside ditches slope toward a Type 1, 2, ((~~or~~)) 3 Water, or Type A or B Wetland for more than 300 feet and otherwise would discharge into the stream or wetland, divert the ditchwater onto the forest floor by relief culvert or other means at the first practical point.

*(10) Filling or draining more than 0.5 acre of a wetland requires replacement or substitution of the lost wetland functions and area. See

board manual. The objective of successful replacement or substitution of lost wetland area shall be on an acre for acre basis and of the same type and in the same general location.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-030 ROAD CONSTRUCTION. (1) Right of way timber. Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

*(2) Debris burial.

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across ((~~swampy ground~~)) wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across ((~~swampy ground~~)) wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across swampy ground or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) Compact fills. During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

*(4) Stabilize soils. When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

*(5) Channel clearance. Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

*(6) Drainage.

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

*(7) Moisture conditions. Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

*(8) End haul/sidecasts. End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

*(9) Waste disposal. When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-035 LANDING LOCATION AND CONSTRUCTION. *(1) Landing location:

Locate landings to prevent damage to public resources. Avoid excessive excavation and filling. Minimize placement and size of landings within wetlands. Landings shall not be located in Type A or B Wetlands or their wetland management zones.

(2) Landing construction.

(a) Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

(b) Where the average general slopes exceed 65 percent, fill material used in construction of landings shall be free from loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.

*(c) Truck roads, skid trails, and fire trails shall be outsloped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fill.

*(d) Landings shall be sloped to minimize accumulation of water on the landing.

*(e) Excavation material shall not be sidecast where there is high potential for material to enter Type A or B Wetlands or wetland management zones or below the ordinary high-water mark of any stream or the 50-year flood level of Type 1, 2, 3, or 4 Water.

*(f) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-040 WATER CROSSING STRUCTURES. *(1) Bridge construction.

(a) Bridges are required for new crossings of any Type 1 or 2 Waters regularly used for recreational boating.

(b) Permanent bridges shall not constrict clearly defined channels and shall be designed to pass the 50-year flood level or the road shall be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure.

(c) One end of each new permanent log or wood bridge shall be tied or firmly anchored if any of the bridge structure is within 10 vertical feet of the 50-year flood level.

(d) Excavation for bridges, placement of sills or abutments, and the placement of stringers or girders shall be accomplished from outside the ordinary high-water mark of all waters, except when such operations are authorized by a hydraulic project approval.

(e) Earth embankments constructed for use as bridge approaches shall be protected from erosion by high water. Some examples of protection are: Planted or seeded ground cover, bulkheads, rock riprap, or retaining walls.

(f) When earthen materials are used for bridge surfacing, curbs of sufficient size shall be installed to be above the surface material and prevent such surface material from falling into the stream bed.

*(2) Culvert installation: All permanent culverts installed in forest roads shall be of a size that is adequate to carry the 50-year flood or the road shall be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure. Refer to Part 5 "Recommended culvert sizes" in the forest practices board manual for the size of permanent culverts recommended for use in forest roads. If the department determines that because of unstable slopes the culvert size shown on that table is inadequate to protect public resources, it may require culvert sizes in accordance with the nomograph (chart) contained in Part 5 of the forest practices board manual or with other generally accepted engineering principles.

(a) No permanent culverts shall be installed that are smaller than:

(i) 24 inches in diameter or the equivalent for anadromous fish streams or wetlands where anadromous fish are present.

(ii) 18 inches or the equivalent for ((~~the resident game fish streams.~~

~~(iii) 12 inches or the equivalent for~~)) all other water or wetland crossings.

(b) The alignment and slope of the culvert shall parallel the natural flow of the stream whenever possible.

(c) When fish life is present, construct the bottom of the culvert at or below the natural stream bed at the inlet and outlet.

(d) Terminate culverts on materials that will not readily erode, such as riprap, the original stream bed (if stable), or other suitable materials.

(e) If water is diverted from its natural channel, return this water to its natural stream bed via culvert, flume, spillway, or the equivalent.

(f) When flumes, downspouts, downfall culverts, etc., are used to protect fill slopes or to return water to its natural courses, the discharge point shall be protected from erosion by: (i) Reducing the velocity of the water, (ii) use of rock spillways, (iii) riprap, (iv) splash plates, or (v) other methods or structures demonstrated to be equally effective.

(g) Stream beds shall be cleared for a distance of 50 feet upstream from the culvert inlet of such slash or debris that reasonably may be expected to plug the culvert.

(h) The entrance of all culverts should have adequate catch basins and headwalls to minimize the possibility of erosion or fill failure.

*(3) Culverts in anadromous fish streams. In addition to the requirements of subsection (2) of this section, in streams used by anadromous fish:

(a) Culverts shall be either open bottomed or have the bottom covered with gravel and installed at least 6 inches below the natural stream bed at the inlet and outlet.

(b) Closed bottom culverts shall not slope more than 1/2 percent; except as provided in (e) of this subsection; open bottom culverts shall not slope more than the natural slope of the stream bed.

(c) Where multiple culverts are used, one culvert shall be at least 6 inches lower than the other(s).

(d) Culverts shall be set to retain normal stream water depth throughout the culvert length. A downstream control may be required to create pooled water back into the culvert and to insure downstream stream bed stability.

(e) Closed bottom culverts, set at existing stream gradients between 1/2 percent and 3 percent slope shall be designed with baffles for water velocity control, or have an approved designed fishway.

(f) The department, after consultation with the departments of fisheries and wildlife, shall impose any necessary limitations on the time of year in which such culverts may be installed to prevent interference with migration or spawning of anadromous fish.

(g) Any of the requirements in (a) through (f) of this subsection may be superseded by a hydraulic project approval.

*(4) Temporary water crossings.

(a) Temporary bridges and culverts, adequate to carry the highest anticipated flow in lieu of carrying the 50-year flood, may be used:

(i) In the westside region if installed after June 1 and removed by September 30 of the same year.

(ii) In the eastside region if installed after the spring runoff and removed prior to the snow buildup which could feed a heavy runoff.

(iii) At other times, when the department and applicant can agree to specific dates of installation and removal.

(b) Temporary bridges and culverts shall be promptly removed upon completion of use, and the approaches to the crossing shall be water barred and stabilized at the time of the crossing removal.

(c) Temporary wetland crossings shall be abandoned and restored based on a written plan approved by the department prior to construction.

(5) Properly prepared and maintained fords may be used during periods of low water providing a hydraulic permit is acquired.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-050 ROAD MAINTENANCE. *(1) Road maintenance and abandonment plan.

(a) The landowner when notified by the department shall submit a plan for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources. The plan is subject to annual review and shall include:

(i) Ownership maps showing the road or road system;

(ii) Road status, whether active, inactive, abandoned or planned for abandonment;

(iii) Maintenance schedule and priorities for the year; and

(iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

(b) The plan shall be submitted to the department region office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

(c) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

(d) Such plans shall also be reviewed with departments of ecology, fisheries and wildlife and affected Indian tribes, any of whom may request an informal conference with the landowner.

*(2) Active roads. An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

*(3) Inactive roads. An inactive road is a forest road on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion or interrupt water movement within wetlands; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts which he knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he fails to make repairs as directed by a notice to comply.

*(4) Additional culverts/maintenance. If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

*(5) Abandoned roads. An abandoned road is a forest road which the forest landowner has abandoned in accordance with procedures of (a) through (e) of this subsection. Roads are exempt from maintenance only after (e) of this subsection is completed:

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands; and

(b) Ditches are left in a suitable condition to reduce erosion; and

(c) The road is blocked so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) Bridges, culverts, and fills on all waters are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

*(6) Brush control. Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. Refer to WAC 222-38-020 for additional information.

*(7) Road surface treatment.

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.95I.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-24-060 ROCK QUARRIES, GRAVEL PITS, BORROW PITS, AND SPOIL DISPOSAL AREAS. Not covered by the Surface Mine Reclamation Act of 1971 (chapter 78.44 RCW).

*(1) Location of pits. Except as approved by the department, rock quarries and gravel pits opened after January 1, 1975 shall be located above the 50-year flood level.

*(2) Location of spoil disposal areas. Except as approved by the department, spoil disposal areas shall be located:

(a) Above the 50-year flood level.

(b) Where the final slope after disposal will be no steeper than 1 1/2:1.

(c) Where practical, on areas having low potential timber productivity.

(d) Where the risk of soil erosion and mass soil movement is minimal.

(e) All spoils shall be placed to allow drainage without additional water ponding.

(f) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

*(3) Pit drainage. During construction and use of rock quarries, gravel pits, or borrow pits, runoff water shall be either diverted onto the forest floor or be passed through one or more settling basins as approved by the department.

(4) Rehabilitation required. All rock quarries, gravel pits, spoil disposal areas and borrow pits used after January 1, 1975 shall be reclaimed within 2 years from the time the rock or gravel source is either exhausted or abandoned.

(5) Rehabilitation standards. Where rehabilitation is required:

(a) Remove all deleterious material that has potential for damaging the public resource, the soil productivity, or that would prevent reforestation of an otherwise plantable area.

(b) Grade slopes to less than the angle of repose unless otherwise approved.

(c) Reforest in accordance with chapter 222-34 WAC to the extent practical.

(d) Seed unreforested exposed erodible soils with grass, clover or other ground cover.

*(6) Major spoil disposal operations. Where a spoil disposal operation involves more than 1,000 cubic yards of spoils:

(a) The spoils shall be placed to provide drainage onto the forest floor without water ponding within the disposal area;

(b) The site shall be reforested in accordance with chapter 222-34 WAC to the extent practical; and

(c) If significant erosion of the spoils develops, the eroding areas shall be water barred and any unreforested areas shall be matted, mulched, or seeded with grass or ground cover.

AMENDATORY SECTION (Amending Order 551, Resolution No. 88-1, filed 9/21/88, effective 11/1/88)

WAC 222-30-010 POLICY—TIMBER HARVESTING. *This section covers all removal of timber from forest lands in commercial operations, commercial thinning, salvage of timber, relogging merchantable material left after prior harvests, postharvest cleanup, and clearing of merchantable timber from lands being converted to other uses. It does not cover removal of incidental vegetation or removal of firewood for personal use. To the extent practical the department shall coordinate the activities on a multiple disciplinary planning approach. The riparian management zone requirements specified in this section are designed to provide protection for water quality and fisheries and wildlife habitat through ensuring present and future supplies of large organic debris for streams, snags, canopy cover, and a multistoried diverse forest adjacent to Type 1, 2 and 3 Waters. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems. The wetland management zone and wetland requirements specified in this section are designed to protect these wetland functions when measured over the length of a harvest rotation, although some of the functions may be reduced until the midpoint of the timber rotation cycle. Landowners are encouraged to voluntarily increase wetland acreage and functions over the long-term.

(NOTE: OTHER LAWS OR REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending Order 551, Resolution No. 88-1, filed 9/21/88, effective 11/1/88)

WAC 222-30-020 HARVEST UNIT PLANNING AND DESIGN. (1) Logging system. The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

*(2) Landing locations. Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

*(3) ((~~Landing construction.~~

~~(a) Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.~~

~~(b) Where the average general slopes exceed 65 percent, fill material used in construction of landings shall be free of loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.~~

~~*(c) Truck roads, skid or fire trails shall be outsloped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fill.~~

~~(d) Landings shall be sloped to minimize accumulation of water on the landing.~~

~~*(e) Excavation material shall not be sidecast where there is high potential for material to enter below the ordinary high-water mark of any stream or the 50-year flood level of Type 1, 2, 3 or 4 Water.~~

~~*(4) Riparian management zones. For the purpose of riparian management zone design the state shall be divided along an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:~~

~~Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,~~

~~Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,~~

~~Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,~~

~~Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,~~

~~Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,~~

~~Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,~~

~~Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,~~

~~Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,~~

~~Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,~~

~~Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,~~

~~Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,~~

~~Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,~~

~~Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.;~~

~~Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.;~~

~~Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.;~~

~~Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.;~~

~~Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.;~~

~~Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.;~~

~~Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary;~~

~~Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.;~~

~~Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.;~~

~~Thence south along Skamania-Klickitat County line to Oregon-Washington state line.~~

~~(5)~~)) Western Washington riparian management zones. These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than 25 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include ((~~swamps, bogs, marshes~~)) wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the more restrictive requirements shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature ((~~control~~)). Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

| WATER TYPE/ AVERAGE WIDTH | RMZ MAXIMUM WIDTH | RATIO OF CONIFER TO DECIDUOUS/ MINIMUM SIZE LEAVE TREES | # TREES/1000 FT. EACH SIDE | |
|---|---|---|---|---|
| | | | GRAVEL/ COBBLE <10" DIAMETER | BOULDER/ BEDROCK |
| 1 & 2 Water 75' & over | 100' | represen-tative of stand | 50 trees | 25 trees |
| 1 & 2 Water under 75' | 75' | represen-tative of stand | 100 trees | 50 trees |
| 3 Water 5' & over | 50' | 2 to 1/ 12" or next largest available | 75 trees | 25 trees |
| 3 Water less than 5' | 25' | 1 to 1/ 6" or next largest available | 25 trees | 25 trees |

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within the riparian management zone of Type 1, 2 or 3 Waters and the harvest unit is a clearcutting of 30 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

*((~~(6)~~)) (4) Eastern Washington riparian management zones. These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include ((~~swamps, bogs, marshes,~~)) wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the more restrictive requirements shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature ((~~control~~)). Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010(33) Partial cutting. When the adjacent unit harvest type is:

Partial cutting – The riparian management zone width shall be a minimum of 30 feet to a maximum of 50 feet on each side of the stream.

Other harvest types – The riparian management zone shall average 50 feet in width on each side of the stream with a minimum width of 30 feet and a maximum of 300 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all ((~~snags~~)) wildlife reserve trees within the riparian management zone ((~~that~~)) where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC ((~~department of labor and industries, safety division~~)) and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 16 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 3 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 ((~~snags~~)) wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 135 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 75 trees/acre 4 inches dbh or larger.

Note: (See the Forest Practices Board Manual for assistance in calculating trees/acre and average RMZ widths.)

(d) When 10 percent or more of the harvest unit lies within the riparian management zone of Type 1, 2 or 3 Waters and either the harvest unit is a clearcutting of 30 acres or less or the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010(33) Partial cutting.)

((~~(7) Type 4 Water~~)) *(5) Riparian leave tree areas. The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.

(6) Forested wetlands. Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(d) Approximate determination of the boundaries of forested wetlands greater than 5 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(e) The department shall consult with the department of wildlife, the department of fisheries, and affected Indian tribes about site specific impacts of forest practices on wetland-sensitive species on forested wetlands.

*(7) Wetland management zones (WMZ). These zones shall apply to Type A and B Wetlands, 0.5 acre in size or larger, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the more restrictive requirements shall apply.

(a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

| Wetland Type | Acres of Nonforested Wetland | Maximum WMZ Width | Average WMZ Width | Minimum WMZ Width |
|---|---|---|---|---|
| A | Greater than 5 | 200 feet | 100 feet | 50 feet |
| A | 0.5 to 5 | 100 feet | 50 feet | 25 feet |
| B | Greater than 5 | 100 feet | 50 feet | 25 feet |
| B | 0.5 to 5 | | | 25 feet |
| B | 0.25 to 0.5 | No WMZ Required | | |

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

(e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

(f) When 10% or more of a harvest unit lies within a wetland management zone and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

*(8) Nonforested wetlands (Type A or B). Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Within the boundary of a Type A or B Wetland, individual trees or forested wetland areas, with more than 30% crown closure, less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

((~~(8)~~)) (9) Future productivity. Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

((~~(9)~~)) (10) Wildlife habitat. This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of wildlife to identify critical wildlife habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) ((~~Where a critical wildlife habitat has been identified the applicant shall consider reasonable means of protection thereof as part of the proposed harvesting operation.~~

~~(c)~~)) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

((~~(d)~~)) (11) Wildlife reserve tree management. In areas where ((~~this will not create a significant fire or~~)) leaving wildlife reserve trees under this section will not create a significant fire hazard, and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), ((~~a reasonable number of snags~~)) wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(b) In Eastern Washington, for 5 years from the effective date of this section where over-story harvest of seed trees left for purpose of

reforestation are proposed and less than 10 trees per acre will be harvested within the 5-year period, 50% of the green recruitment trees may be left.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree and green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas or reserve trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan approved by the department.

NEW SECTION

WAC 222-30-025 EVEN-AGED HARVEST—SIZE AND TIMING. Except as provided in WAC 222-30-110, unit size and timing of timber harvesting by even-aged harvest methods is subject to the following requirements:

(1) Timber harvest which would result in an area larger than one hundred twenty acres and smaller than or equal to two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be reviewed by an interdisciplinary team, if the department determines that review is necessary. The area harvested by even-aged harvest methods, for the purposes of this subsection, shall be determined in accordance with subsection (3) of this section.

(2) Timber harvest which would result in an area larger than two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be prohibited. The area harvested by even-aged harvest method for the purposes of this subsection shall be determined in accordance with subsection (3) of this section.

(3) In calculating areas harvested by even-aged harvest methods, the area harvested by even-aged harvest methods shall include the acreage of that harvest unit and, all contiguous acreage harvested by even-aged harvest methods which is owned or controlled by the same landowner, except that acreage harvested by even-aged harvest methods sharing 10% or less of the common perimeter with the harvest unit under consideration shall not be considered contiguous for the purposes of this section.

(4) Harvest units shall be designed so that each harvest unit meets at least one of the following criteria:

(a) At least thirty percent of the unit's perimeter is in stands of trees that are thirty years of age or older;

(b) At least sixty percent of the unit's perimeter is in stands of trees that are fifteen years of age or older; or

(c) At least ninety percent of the unit's perimeter is in stands of trees that have survived on site a minimum of five growing seasons or, if not, have reached an average height of four feet.

Evaluation of unit perimeters is subject to the conditions specified in subsection (6) of this section.

(5) The requirements of subsections (2), (3), and (4) of this section shall apply only to timber harvest by even-aged harvest methods and shall not apply to timber harvest to salvage timber damaged by wind, disease, insects, fire, or other natural causes or to forest practices involving the clearing of land of brush or understocked hardwoods to convert to managed hardwoods or conifers.

(6) In evaluating the perimeters of harvest units pursuant to subsection (4) of this section, the following conditions shall apply:

(a) The following shall be treated as fully stocked, mature stands that will not be counted as contiguous acreage harvested by even-aged methods for the purposes of subsections (1) and (2) of this section and which will be counted as thirty-year-old stands for the purposes of subsection (4) of this section:

(i) In western Washington, a riparian management zone or wetland management zone that is twice the width with twice the tree count required by WAC 222-30-020(5) along Type 1, 2, or 3 Waters;

(ii) In eastern Washington, a riparian management zone or wetland management zone that is the width required by WAC 222-30-020(6);

(iii) Designated upland management areas;

(iv) Lands in a shoreline of state-wide significance where harvest is limited under RCW 90.58.150;

(v) The portions of a perimeter consisting of land in uses other than forest land, such as land in agricultural or residential use and natural openings, and land not owned or controlled by the landowner who has proposed the harvest unit subject to the application under consideration;

(b) A stand of trees other than those described in (a) of this subsection shall be treated as a certain age class only if the stand is at least three hundred feet wide;

(c) Timber harvest units subject to an approved application or a notification for timber harvesting shall be treated as if the timber harvesting operation proposed in the application or notification were completed and regeneration not yet established.

(7) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-040 ((~~TEMPERATURE CONTROL~~)) SHADE REQUIREMENTS TO MAINTAIN STREAM TEMPERATURE.

*(1) ((~~Determination of temperature sensitivity for Type 1, 2 and 3 Waters shall be based upon field data or records, from a verified water temperature model or method acceptable to the department, that demonstrate significant adverse water temperature impacts following the proposed timber harvest and shade removal. Any designation as to whether or not waters are temperature sensitive shall be made by the department prior to the deadline for approval or disapproval of the application for harvest.~~

~~*(2) Shade requirements. Within the riparian management zone along those Type 1, 2 and 3 Waters designated as temperature sensitive, unless a waiver is granted by the department under subsection (3) of this section, the operator shall:~~

~~(a) Leave all nonmerchantable vegetation which provides midsummer and mid-day shade of the water surface; and~~

~~(b) Leave sufficient merchantable timber, if any, necessary to retain 50 percent of the summer mid-day shade of the water surface, provided that the department shall require leaving 75 percent of the shade where it determines that the mean of the maximum summer daily ambient water temperatures, for a 7-day period, exceeds 60 degrees before logging. (See the forest practices board manual part 2 for methods of shade determination.)~~

~~*(3)~~)) Determination of adequate shade. The temperature prediction method in subsections (2) and (3) of this section shall be used to determine appropriate shade levels for flowing Type 1, 2, and 3 Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

*(2) Temperature prediction method. Additional leave trees shall be retained in riparian management zones on flowing Type 1, 2, and 3

Waters as provided by the method prescribed in the board manual which includes the following considerations:

(a) Shade retention; and

(b) Minimum leave tree requirements; and

(c) Regional water temperature characteristics; and

(d) Elevation; and

(e) Temperature criteria defined for stream classes in WAC 173-203-030.

*(3) Leave tree requirements for shade. The method described in subsection (2) of this section shall be used to establish the minimum shade cover based on site specific characteristics. When site specific data indicate that pre-harvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(4) Waivers. The department may waive or modify the shade requirements where ((~~the applicant~~)):

(a) ((~~Shows a high probability of windthrow and agrees to replant the riparian management zone within the first planting season after harvest; or~~

~~(b)~~)) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature ((~~control~~)); or

((~~(c)~~)) (b) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(c) The temperature method used by the department indicates that additional shade will not affect stream temperature.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-050 FELLING AND BUCKING. *(1) Falling along water.

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within ((~~the~~)) riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

*(2) Bucking in water.

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

*(3) Falling near riparian management zones, wetland management zones and setting boundaries. Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) Falling in selective and partial cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-060 CABLE YARDING. *(1) Type 1, 2 and 3 Waters. No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

*(2) Type A or B Wetlands. No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

*(3) Deadfalls. Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

*((~~(3)~~)) (4) Yarding in riparian management zones and wetland management zones. Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

((~~(4)~~)) (5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

*(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-070 TRACTOR AND WHEELED SKIDDING SYSTEMS. *(1) ((~~Type 1, 2, 3 and 4 Waters~~)) Typed waters and wetlands.

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

((~~(c)~~)) (e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

*(2) Riparian management zone.

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

((~~(3)~~)) *(3) Wetlands management zones.

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

*(4) Deadfalls. Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

*((~~(4)~~)) (5) Moisture conditions. Tractor and wheeled skidders shall not be used on exposed erodible soils or hydric (wetland) soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

((~~(5)~~)) (6) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

*((~~(6)~~)) (7) Skid trail construction.

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

*((~~(7)~~)) (8) Skid trail maintenance. Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

*((~~(8)~~)) (9) Slope restrictions. Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-090 POSTHARVEST SITE PREPARATION. Unless the application or notification indicates that the landowner or forest landowner specifically agrees to assume responsibility for compliance with this section, the operator shall leave the site in a condition suitable for reforestation following any clear cutting, or any partial cutting west of the summit of the Cascades where 80 percent or more of the cubic volume is removed within any 5 consecutive years unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils. Lands being converted to another use or classified as urban development lands under WAC 222-34-050 are exempt.

The following site preparation is required when necessary to establish a condition suitable for reforestation:

(1) Cutting, slashing, or other treatment of all noncommercial tree species, other competing vegetation, and nonmerchantable size trees commonly known as "whips" which will not reasonably utilize the growing capacity of the soil except in ((~~the~~)) wetlands, wetland management zones, riparian management zones; or

(2) Pile or windrow slash; or

(3) Mechanically scatter slash; or

(4) Leave the cutover area in a condition for controlled broadcast burning, and subsequently burn.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-30-100 SLASH DISPOSAL. (1) Slash disposal techniques:

*(a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity((~~, any conventional method of slash disposal may be used, such as:~~)). Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: PROVIDED, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to ((~~prevent damage to~~)) project Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

*(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) Slash isolation, reduction, or abatement is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) Slash disposal is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

*(4) Removing slash and debris from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

*(5) Fire trails.

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within wetlands, wetland management zones, or riparian zones without prior written approval of the department.

NEW SECTION

WAC 222-30-110 TIMBER HARVESTING ON ISLANDS. On an island:

(1) A landowner shall not harvest by clearcut so that more than forty contiguous acres of that landowner's forest land are in a clearcut condition;

(2) Forest land harvested by clearcut remains in the clearcut condition until it has reached canopy closure or it has been reforested for at least ten years;

(3) Clearcut harvest units are contiguous unless separated by a buffer at least two hundred feet wide that has reached canopy closure, has been reforested for at least ten years, or is in a land use other than timber production.

(4) Within two hundred feet of the ordinary high-water mark of saltwater timber harvest shall be by selective harvest only, so that no more than thirty percent of the merchantable trees are harvested in any ten-year period: PROVIDED, That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silvicultural practices necessary for regeneration render selective harvest ecologically detrimental: PROVIDED FURTHER, That harvest by clearcut on lands being converted to another use may be approved.

(5) The requirements of this section shall not apply to timber harvest to salvage timber damaged by wind, disease, insects, fire, or other natural causes.

(6) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-38-010 POLICY—FOREST CHEMICALS. Chemicals perform important functions in forest management. The purpose of these regulations is to regulate the handling, storage and application of chemicals in such a way that the public health, ((~~soils~~)) lands, fish, wildlife ((~~and~~)), aquatic habitat, and water quality will not be endangered by contamination. This section in no way modifies the state department of agriculture regulations governing chemicals.

(NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending Order 551, Resolution No. 88-1, filed 9/21/88, effective 11/1/88)

WAC 222-38-020 HANDLING, STORAGE, AND APPLICATION OF PESTICIDES. *(1) No pesticide leakage, contamination, pollution.

(a) ((~~No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants, and animals.~~

~~(b) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage, until the deficiency has been corrected to the satisfaction of the department suspending its usage.~~

~~*(2) Streams, lakes and public waters. No person shall pollute streams, lakes, and other public water supplies in their pesticide loading and mixing operation. Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.~~

~~*(3)~~)) Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

*(2) Mixing and ((~~landing~~)) loading areas.

(a) Mix ((~~chemicals~~)) pesticides and clean tanks and equipment only where any accidental spills would not enter ((~~any water types~~)) surface water or wetlands.

(b) ((~~Landing~~)) Storage and loading areas should be located where accidental spillage of ((~~chemicals~~)) pesticides will not ((~~cause them to become a contaminant~~)) enter surface water or wetlands. If any ((~~chemical~~)) pesticide is spilled, immediate appropriate procedures should be taken to contain ((~~or neutralize~~)) it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

*(((~~4~~))) (3) Riparian management zone. ((~~Chemical~~)) Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(4) Wetland management zone. Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(5) Aerial application of pesticides.

(a) To keep ((~~chemicals~~)) pesticides out of the water, leave a 50 foot buffer strip on ((~~Type 1, 2, 3 and flowing Type 4 and 5 Waters~~)) all typed waters, except segments of Type 4 and 5 Waters with no evidence of surface water and other areas of open water, such as ponds or sloughs. ((~~Do not spray chemicals in buffer strips or riparian management zones. Provided that fertilizers may be applied to within 25 feet of the water.~~))

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection ((~~on Type 1, 2, 3 or flowing Type 4 and 5 Waters. Parallel flight adjacent to all buffer strips shall be required~~)) unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no evidence of surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off ((~~chemical application~~)) spray equipment during turns and over open water.

(e) ((~~Do not allow direct entry of chemicals into any Type 1, 2, 3 or flowing Type 4 and 5 Waters.~~

~~(f)~~)) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(((~~g~~))) (f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units ((~~so they are visible from the air~~)) with appropriately marked aerial photos or detailed planimetric maps. Before application of the ((~~chemical~~)) pesticide an over-flight of the area shall be made by the pilot ((~~and a responsible agent of the landowner~~)) with the marked photos or maps.

(((~~h~~))) (g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name of the product used, date of treatment, ((~~and~~)) a contact telephone number, and any applicable restrictions.

((~~(i) Any water purveyor of a certified Class 1, 2 or 3 system, as defined in WAC 248-54-015, may request the department to designate lands within the watershed upstream of the surface water intake of the affected water supply as an "area of water supply interest." Prior to requesting such designation, the purveyor shall personally or by certified mail deliver to each landowner of record within such area, a copy of the request, a map showing proposed area boundaries and the name and address of the purveyor. The department may designate an "area of water supply interest" in such area(s) where it determines that the aerial application of pesticides may adversely impact the affected water supply. Where the department has designated an "area of water supply interest," it shall notify the purveyor of any Class IV Forest Practices for the aerial application of pesticides.~~))

*(6) ((~~Stream protection -~~)) Ground application of pesticides with power equipment.

((~~(a) Leave a 10 foot buffer strip on each side of every Type 1 and 2 Water and each flowing Type 3 Water.~~

~~(b) Do not allow entry of chemicals into any water.~~

~~(c) Do not exceed allowable dosages.~~)) Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no evidence of surface water.

*(7) ((~~Stream protection -~~)) Hand application of pesticides.

Apply only to specific targets, such as ((~~a stump, burrow, bait or trap~~)) vegetation, trees, stumps, and burrows, or as bait or in traps.

*(8) Limitations on application. ((~~Chemicals~~)) Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

*(9) Container disposal. ((~~Chemical~~)) Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner ((~~not inconsistent~~)) consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

*(10) Daily records - aerial application of pesticides. On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

*(11) Reporting of spills. All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

NEW SECTION

WAC 222-38-030 HANDLING, STORAGE, AND APPLICATION OF FERTILIZERS. *(1) Storage and loading areas. Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

*(2) Riparian management zone. Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(3) Wetland management zone. Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(4) Aerial application of fertilizer.

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units so they are visible from the air. Before application of the fertilizer, an over-flight of the area shall be made by the pilot and a responsible agent of the landowner.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

*(5) Ground and hand application of fertilizers. Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no evidence of surface water.

*(6) Reporting of fertilizer spills. All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

NEW SECTION

WAC 222-38-040 HANDLING, STORAGE, AND APPLICATION OF OTHER FOREST CHEMICALS. *(1) Waters and wetlands. Do not allow direct entry of other forest chemicals into any typed waters, except segments of Type 4 and 5 Waters with no evidence of surface water, or Type A or B Wetlands.

*(2) Storage, mixing, and loading areas.

(a) Mix other forest chemicals and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of other forest chemicals will not enter surface water or wetlands. If any chemical is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

(d) Water protection requirements in subsection (1) of this section may be waived when emergency use of fire retardants is necessary to control wildfire.

## WSR 92-11-070
### PERMANENT RULES
### DEPARTMENT OF LABOR AND INDUSTRIES
### (Board of Boiler Rules)

[Filed May 20, 1992, 10:30 a.m.]

Date of Adoption: May 19, 1992.

Purpose: To comply with actions taken by the Board of Boiler Rules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-010(20) Definitions; 296-104-200 Standards for new construction; 296-104-500 Nonnuclear repairs; 296-104-501 Nunnuclear alterations; and 296-104-530 Repairs.

Statutory Authority for Adoption: RCW 70.79.040.

Pursuant to notice filed as WSR 92-08-087 on March 31, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 19, 1992
Robert E. Reid
Chairman

AMENDATORY SECTION (Amending Order 87-25, filed 12/17/87)

WAC 296-104-010 DEFINITIONS. (1) "Director" shall mean the director of the department of labor and industries.

(2) "Board of boiler rules" shall mean the board created by law and empowered to make, alter, amend, and interpret rules and regulations for the safe and proper construction, installation, repair, and use of boilers and for the proper construction, installation, and repair of unfired pressure vessels in this state.

(3) "Chief inspector" shall mean the chief boiler inspector appointed under RCW 70.79.100.

(4) "Deputy inspector" shall mean a deputy inspector of boilers and unfired pressure vessels appointed by the chief boiler inspector of Washington under the provisions of RCW 70.79.120.

(5) "Special inspector" shall mean an inspector holding a Washington commission, who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers and unfired pressure vessels in this state, or who is continuously employed by any company operating unfired pressure vessels in this state for the purpose of making inspections of unfired pressure vessels used or to be used by such company.

(6) "Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

(7) "Certificate of competency" shall mean a certificate issued to a person who has passed an examination prescribed by the board of boiler rules.

(8) "Department" as used herein shall mean the department of labor and industries of the state of Washington.

(9) "Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

(10) "ASME Code" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments and interpretations thereto made and approved by the council of the society which have been regularly adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

(11) "Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

(12) "Approved" shall mean approved by the chief boiler inspector as evidenced by his issuance of an inspection certificate.

(13) "Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the ASME stamp.

(14) "Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear the ASME stamp.

(15) "Boiler" shall mean a closed vessel used for heating water or liquid or for generating steam or vapor by the direct application of heat.

(16) "Direct application of heat" shall mean the firing of any fuel, solid, liquid, or gaseous, including electrical elements of any description.

(17) "Power boiler" shall mean a boiler used to produce steam or vapor at a pressure exceeding 15 lbs. per square inch gage, or a boiler used for heating water or liquid to a pressure exceeding 160 psi. or to a temperature exceeding 250°F.

(18) "Low pressure heating boiler" shall mean a boiler operated at a pressure not exceeding 15 lbs. per square inch gage steam, or at a pressure not exceeding 160 lbs. per square inch and a temperature not exceeding 250°F. for water.

(19) "Hot water supply boiler" shall mean a low pressure boiler used to heat water to a temperature not exceeding 200°F.

(20) "Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

(21) "Unfired pressure vessel" shall mean a closed vessel in which pressure is obtained from an external source, or from an indirect application of heat, including steam or hot water coils, converters or heat exchangers.

(22) "Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reerected at the same location or at a new location without change of ownership.

(23) "Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

(24) "Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.

(25) "Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for inspection of the interior. An ultrasonic examination of unfired pressure vessels 36" diameter and under, shall constitute an internal inspection.

(26) "External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices.

(27) "Place of public assembly" shall mean a building used in whole or in part for occupation by persons for such purposes as worship, hospitals, education, instruction, entertainment, amusement, waiting transportation, or child care centers.

Child care centers include those agencies which operate facilities for the care of thirteen children or more. No such center shall be located in a private family residence. The substantive rules of this code shall apply to all child care centers operated in the state of Washington.

(28) "Fusion welding" shall mean a process of welding metals in a molten, or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxy-acetylene or oxy-hydrogen flame or by the electric arc. Thermit welding shall be classified as fusion welding.

(29) "Major repair" shall mean one upon which the strength of a boiler or unfired pressure vessel depends.

(30) "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

(31) "Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

(32) "Automatic operation of a boiler" shall mean full control of feed water and fuel in order to maintain the pressure and temperature constant within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, or power failure.

(33) "Alteration" is a structural modification of, or a departure from an original design or existing construction.

(34) "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.

NEW SECTION

WAC 296-104-018 ADMINISTRATION—RULE INTERPRETATION AND REVISION. Interpretations will be brought to the board if the inquirer is aggrieved by the interpretation of the chief inspector (RCW 70.79.360). The board will consider written requests for interpretations and revisions to these definitions, rules, and regulations. Inquiries shall be limited to requests for interpretation of the rules or to proposed revisions to the existing rules and shall be submitted in the following format:

(1) Scope. Involve a single rule or closely related rules.

(2) Background. State the purpose of the inquiry, which should be either to obtain an interpretation or to propose a revision to existing rules. Provide concise information needed for the board's understanding of the inquiry, including references to the WAC section as well as other code and/or standards paragraphs.

(3) Inquiry structure. Provide statements in a condensed and precise question format and, where appropriate, compose in such a way that "yes" or "no" (perhaps with provisos) would be an acceptable reply.

(4) Proposed reply. State what it is believed the rule requires. If in the inquirer's opinion a revision to the definitions, rules, and regulations is needed, recommended wording should be provided.

Inquiries shall be submitted to:
Board of Boiler Rules
% Chief Inspector
Department of Labor & Industries
B&CSIS
Boiler Section
P.O. Box 44410
Olympia, WA 98504-4410

AMENDATORY SECTION (Amending WSR 91-11-107, filed 5/22/91, effective 6/22/91)

WAC 296-104-200 STANDARDS FOR NEW CONSTRUCTION. The standards for new construction are the 1989 edition, with addenda, of ASME Boiler and Pressure Vessel Code, Sections I, III, IV, VIII, and X, the 1987 edition of ASME/ANSI PVHO-1 (Standard for Pressure Vessels for Human Occupancy)((, the 1987

~~edition of ANSI B31.3 (Chemical Plant & Petroleum Refinery Piping) for oil and chemical plants, and the 1989 edition of ASME/ANSI B31.1 (Power Piping) for other nonnuclear construction with all addenda as issued and made part of the above referenced ASME/ANSI sections of the codes~~)). These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. Also, in circumstances such as nuclear systems, the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending Order 86-01, filed 2/4/86)

WAC 296-104-500 NONNUCLEAR REPAIRS. Where a repair, involving welding to a pressure retaining part is performed, ((~~an R-1 report~~)) a report of welded repair, signed by the certificate holder and an authorized inspector shall be submitted to the jurisdiction((~~, as required in the National Board Inspection Code~~)). Repairs to all boilers, pressure vessels, and their appurtenances shall conform to the rules contained in the 1985 National Board Inspection Code ((~~wherever they apply~~)) chapter III. Furthermore, repairs shall be performed only by those holding an ASME Certificate of Authorization or a National Board "R" Certificate of Authorization. In all cases the material and workmanship shall comply with the rules contained in the appropriate sections of the ASME Code.

AMENDATORY SECTION (Amending Order 86-01, filed 2/4/86)

WAC 296-104-501 NONNUCLEAR ALTERATIONS. Where alterations are accomplished, copies of all ((~~R-1~~)) alteration reports such as reports of welded or rerated alterations, shall be sent to the department. Alterations to all boilers, pressure vessels, and their appurtenances shall conform to the rules contained in the 1985 National Board Inspection Code ((~~wherever they apply~~)) chapter III. Physical alterations shall only be performed by those parties with the appropriate ASME authorization.

AMENDATORY SECTION (Amending Part VII, filed 3/23/60)

WAC 296-104-530 REPAIRS—AIR OR VAPOR TESTING. Testing by air or vapor at pressures in excess of 15 lbs. shall not be undertaken without special permission from the inspector.

## WSR 92-11-071
## PROPOSED RULES
## DEPARTMENT OF LABOR AND INDUSTRIES
[Filed May 20, 1992, 10:42 a.m.]

Original Notice.

Title of Rule: WAC 296-30-081 Acceptance of rules and fees.

Purpose: To allow labor and industries to pay, under the Crime Victim Act, the same percentage of allowed charges to hospitals and hospital-based residential care facilities that DSHS pays under Medicaid.

Statutory Authority for Adoption: Chapter 7.68 RCW.

Summary: The rule amends the existing rule for inpatient charges to decouple the rates from labor and industries and to adopt the rates of DSHS under Medicaid.

Reasons Supporting Proposal: The amendment meets an immediate need to stretch dollars in a way that will have the least adverse effect on crime victims.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rich Ervin, P.O. Box 44520, Olympia, WA 98504-4520, (206) 586-4089.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To stretch dollars, the rule decouples payments to hospitals for inpatient care from the labor and industries percentage of allowed charges. It adopts the percentage schedule that DSHS pays under Medicaid. The anticipated effects are to have a very minimal reduction in revenues to hospitals resulting in no decrease in service to victims.

Proposal Changes the Following Existing Rules: WAC 296-30-081 is amended to provide the above changes.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

There is no small business impact from this rule for the reason that the rule affects only hospitals. No hospital in the state of Washington meets the RCW 43.31.025(4) definition of a small business. A small business impact statement is, therefore, not required to implement the rule, under the authority of RCW 19.85.060(2).

Note: Information on hospitals in the state of Washington was supplied by the Department of Health on April 22, 1992.

Hearing Location: Olympia Capitol Campus, General Administration Building, Main Auditorium, 11th and Columbia, on June 30, 1992, at 9:00 a.m.

Submit Written Comments to: Rich Ervin, Program Manager, Crime Victims Compensation, P.O. Box 44520, Olympia, WA 98504-4520, by June 30, 1992.

Date of Intended Adoption: July 30, 1992.

May 20, 1992
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 85-37, filed 12/11/85)

WAC 296-30-081 ACCEPTANCE OF RULES AND FEES. Providing medical or counseling services to an injured crime victim whose claim for crime victims compensation benefits has been accepted by the department constitutes acceptance of the department's medical aid rules and compliance with its rules and fees. Maximum allowable fees shall be those fees contained in WAC 296-21-010 through ((~~296-23-9408~~)) 296-23A-425 and in WAC 296-30-080 less any available benefits of public or private collateral resources, except that the percentage of allowed charges authorized by WAC 296-23A-105: Payment for hospital inpatient and outpatient services, WAC 296-23A-155: New hospitals, WAC 296-23A-160(3): Excluded and included services, and WAC 296-23A-165: Out-of-state hospitals shall be equal to the percentage of allowed charges established by the department of social and health services under Title 74 RCW and WAC 388-87-070(6): Payment Hospital inpatient services.

An injured victim shall not be billed for his or her accepted injury. The department shall be billed only after available benefits of public or private insurance have been determined.

If the ((~~medical~~)) service provider has billed the injured victim and is later notified that the department has accepted the victim's claim, the provider shall refund to the injured victim any amounts paid that are in excess of the amounts that the victim is entitled to from public or private insurers, and bill the department for services rendered at fee schedule rates if such rates are in excess of the public or private insurance entitlements.

## WSR 92-11-072
### PREPROPOSAL COMMENTS
### DEPARTMENT OF LABOR AND INDUSTRIES
[Filed May 20, 1992, 10:43 a.m.]

Subject of Possible Rule Making: Chapter 296-306 WAC, Safety standard for agriculture, safety and health standards relating to agriculture code.

Persons may Comment on this Subject in the Following Ways: Oral comments at the Cedars Inn, 1 Appleway, Okanogan, WA 98840, (509) 422-6431, on July 1, 1992. This hearing is in addition to public information hearings scheduled previously in WSR 92-08-098, filed April 1, 1992. Written comments submitted at the location and time above or submitted to J. N. Kirchoff, Assistant Director, Division of Industrial Safety and Health, P.O. Box 4600, 805 Plum Street, Olympia, WA 98504-4600. The hearing will start at approximately 9:00 a.m. and continue through the morning as necessary. The hearing will recess during the afternoon and resume at 5:00 p.m., continuing as necessary, throughout the evening. The hearings will adjourn no later than 9:00 p.m.

Other Information or Comments by Agency at this Time, if any: Copies of the draft regulations will be available at the public hearings or by calling Ellen Atkinson at (206) 664-9410. Representatives of the Department of Labor and Industries will be available to discuss these draft rules at the hearings and answer questions from the public.

May 20, 1992
Joseph A. Dear
Director

## WSR 92-11-073
### PROPOSED RULES
### DEPARTMENT OF AGRICULTURE
[Filed May 20, 1992, 10:45 a.m.]

Original Notice.

Title of Rule: Chapter 16-212 WAC, Grain, hay, beans and peas—Inspection fees.

Purpose: To update the current fee schedule to reflect the changes to standards and instructions established by the federal grain inspection service, USDA.

Statutory Authority for Adoption: Chapter 22.09 RCW.

Statute Being Implemented: Chapter 22.09 RCW.

Summary: The proposed rule changes are necessitated by a transfer of regulatory authority for canola inspection and aflatoxin analysis from the United States Agricultural Marketing Act (USAMA) to the United States Grain Standards Act (USGSA). Additional changes reflect updates to the fee schedule for shiphold stowage examinations, phytosanitary certificate services, additional functions and technologies in protein analysis, liquefaction number certification and facsimile transmissions. Proposed deletions from the fee schedule include the removal of official hay analysis and the removal of Longview as a designated inspection point.

Reasons Supporting Proposal: The adjustments for aflatoxin and canola are necessitated by a change in regulatory authority. Additional changes reflect updates to the fee schedule, and fees for new services requested by the industry. The proposed changes to canola, aflatoxin and stowage examination fees are necessary to update the current fee schedule to reflect the following changes to standards and instructions established by the Federal Grain Inspection Service, USDA.

Canola: United States Grain Standards Act and Regulations Section 7 USC 75 Inspection Section 4, Section 8000.0(42) and Grain Inspection Handbook, Book II, Chapter 3, Canola (2/28/92).

Aflatoxin Analysis: Federal Register Rule 57 FR 2438 (1/22/92). FGIS Aflatoxin Handbook, updates to Chapters 1, 4, 15, 16, (2/21/92).

Stowage Examination Services: USDA FGIS Program Bulletin 918.48 Stowage Examination Services (4/21/89 with updated dated 11/29/89). USGSA Sections 800.75 (F), (J). USAMA Sections 68.31 (G), (M).

The addition of services for phytosantitary certification, liquefaction number certification, and facsimile transmissions are in response to industry needs and fees are established to recover the costs of providing the services.

The changes to protein analysis reflects updates in current technology and services available.

Hay Inspection: Deleted from official USDA instructions.

Longview, WA: Inspection point closed 2/89.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Gore, Olympia, Washington, (206) 753-5066.

Name of Proponent: USDA in conjunction with WSDA necessitated by changes in the U.S. Grain Standards Act, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes to canola, aflatoxin and stowage examination fees are necessary to update the current fee schedule to reflect the changes to standards and instructions established by the Federal Grain Inspection Service, USDA. The addition of services for phytosanitary certification, liquefaction number certification, and facsimile transmissions are in response to industry needs and fees are established to recover the costs of providing the services.

Proposal Changes the Following Existing Rules: The regulatory authority for canola inspection and aflatoxin analysis will transfer from the United States Agricultural Marketing Act to the United States Grain Standards Act. The changes in the fee schedule will reflect updates for shiphold stowage examinations, phytosanitary certificate services, additional functions and technologies in protein analysis, liquefaction number certification and facsimile transmissions. Proposed deletions from the fee schedule include the removal of official hay analysis and the removal of Longview as a designated inspection point.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: 406 General Administration Building, 4th Floor Conference Room, Olympia, Washington 98504, on June 23, 1992, at 10:00 a.m.

Submit Written Comments to: Robert W. Gore, Program Manager, Grain Inspection, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by June 23, 1992.

Date of Intended Adoption: July 10, 1992.

May 20, 1992
J. Allen Stine
Assistant Director

AMENDATORY SECTION (Amending Order 1751, filed 12/2/81)

WAC 16-212-020 GRAIN AND COMMODITY INSPECTION POINTS. The following cities in the state of Washington are hereby designated as inspection points for the purpose of inspecting and weighing standardized grains, ((~~hay,~~)) beans, peas, lentils and other commodities: Colfax, Kalama, ((~~Longview,~~)) Pasco, Seattle, Spokane, Tacoma and Vancouver.

AMENDATORY SECTION (Amending Order 1913, filed 12/12/86)

WAC 16-212-060 OFFICIAL INSPECTION AND/OR WEIGHING FEES UNDER THE UNITED STATES GRAIN STANDARDS ACT.

(1) Combination inspection and weighing fees. Ships, barges, unit trains and transfers of bulk grain.
(a) From vessel to elevator, per ton ..... $ 0.12
(b) Bin transfers, per ton ..... $ 0.12
(c) From elevator to vessel, per ton ..... $ 0.12
(d) From railcars of a unit train, sampled by diverter samplers, batch weighed and inspected under the sublot inspection plan in units of not less than five cars, per ton .... $ 0.12

(2) Inspection only of railroad boxcars, open hopper-type cars or covered hopper-type cars, original inspection.
(a) When sampled by United States Department of Agriculture approved mechanical belt, spout or leg ((~~type~~)) samplers ((~~at plants~~)), per car (batch grades-up to a maximum of 5 car units are charged at the per car rate) ..... $ 14.50
(b) When sampled by United States Department of Agriculture approved grain trier, original and subsequent original inspections, per car ..... $ 23.00

(3) Inspection only of trucks, per truck ..... $ 14.00

(4) Reinspections of railroad boxcars, open hopper-type cars, covered hopper-type cars, ship sublot samples, barge lots, truck lots, and submitted samples.
(a) When based on an official file sample, per reinspection ..... $ 8.50
(b) When based on a new sample, for railcars only, per reinspection ..... $ 23.00
(c) When based on a new sample, for trucks only, per reinspection ..... $ 14.00

(5) Submitted samples,
(a) Standardized grains, except canola per inspection ..... $ 7.00
(b) Canola, per inspection ..... $ 13.00

(6) Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of canola, identical to the fees assessed by the Federal Grain Inspection Service.

(7) Factor analysis and/or certification.
(a) Factors added to existing certificates, or requested on ship sublot analyses, that do not affect the grade: per factor ..... $ 2.50
PROVIDED, That on submitted sample certificates of grade for wheat and barley, dockage to the nearest one-tenth percent will be shown in remarks section and, for wheat, foreign material shown on the factor line, when it is not a grading factor, without additional charge.
(b) Factor certification only (maximum of two factors), per certificate ..... $ 3.00
(i) Additional factors added to a factor certificate, per factor ..... $ 2.50
(A maximum of $((~~6.25~~)) 7.00 will be charged for grading factors only.)
(ii) When submitted samples are not of sufficient size to provide official grade analysis, obtainable factors will be provided, upon request of the applicant, at the factor only rate.

((~~(7)~~)) (8) Official (NIRR or NIRT) protein analysis.
(a) Protein and/or oil analysis in conjunction with official inspection for grade ..... $ 6.25
(b) Protein and/or oil only((~~, submitted sample or reinspection~~)) ..... $ 8.50
When based on official sample (including new sample reinspection) add the applicable sampling charges.
(c) Protein ((~~based on official~~)) and/or oil only: Submitted sample((~~, add applicable sampling charges.~~)) or reinspecction based on official file sample ..... $ 8.50

((~~(8)~~)) (9) Inspection of sacked grain at inspection points, per cwt ..... $ 0.06

((~~(9)~~)) (10) Checkloading sacked grain, per man-hour .... $ 23.00

((~~(10)~~)) (11) Waxy corn determination, on request, per determination ..... $ 12.00

((~~(11)~~)) (12) Aflatoxin testing fees
(a) Screening or quantitative testing determinations, based on official sample, except thin layer chromatography, per test ..... $ 35.00
(b) Submitted samples, screening or quantitative determinations, except thin layer chromatography, per test ..... $ 23.00
(c) Reinspection, based on official file, screening or quantitative, except thin layer chromatography, per test ..... $ 23.00
(d) Reinspection, based on a new sample, screening or quantitative, except thin layer chromatography, per test ..... $ 35.00
(e) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service.

(13) Stowage examinations - ships, barges or vessels.
(a) Per stowage space and/or tank, per examination ..... $ 22.50
(b) Initial inspection, minimum charge ..... $((~~112.00~~)) 112.50
(c) Subsequent inspections, minimum charge ..... $ 67.50
(d) Stowage examinations will be made on ships or vessels at anchor in midstream when requested.
(i) It is the responsibility of the applicant to provide safe transportation by licensed tug or water taxi to and from the vessel.
(ii) A minimum of two hours of regular time at $23.00 per hour (one inspector) for general cargo vessels and a minimum of four hours

of regular time at $23.00 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.

(iii) Inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.

(iv) Inspections can only be made within the area of the designated tidewater grain inspection office.

(v) A ship's or vessel's officer or company agent shall accompany the licensed shiphold inspector(s).

(e) A minimum of four hours per inspector at the applicable overtime rate shall also be assessed on Saturdays, Sundays, or holidays.

((~~(12)~~)) (14) Other stowage examinations.

(a) Sea van-type containers (when checkloading is not required) ..... $ 7.60

(b) Railroad cars, trucks and other containers, not in conjunction with loading, per container ..... $ 7.60

((~~(13)~~)) (15) Checktesting of diverter and mechanical samplers, per man-hour ..... $ 23.00

((~~(14)~~)) (16) Ship samples.

(a) Ship composite samples.

(i) Initial set of samples to applicant (maximum of three samples) ..... no charge

(ii) Additional samples or samples at the request of other interested parties, per sample (two sample minimum when not requested with initial set) ..... $ 5.00

(b) Ship samples on a sublot basis, per sample ..... $ 5.00

((~~(15)~~)) (17) Weighing services.

(a) Class X weighing services.

(i) From railroad boxcars, open or covered hopper-type cars (without inspection required) or vessels to elevator (grain only), per ton ..... $ 0.10

(ii) From elevator to boxcars, open or covered hopper-type cars, barges (without inspection required) or vessels (without inspection, grain only), per ton ..... $ 0.10

(iii) Bin transfers (grain only), per ton ..... $ 0.10

(iv) Trucks, per truck or weight lot ..... $ 7.00

(b) Class Y weighing services, per man-hour ..... $ 23.00

(c) Checkweighing of sacked grain, per man-hour ..... $ 23.00

(d) Scale certification/checktesting of official weighing scales.

(i) Weights and measures scale specialist, per man-hour ..... $ 31.50

(ii) Grain inspection personnel, per man-hour ..... $ 23.00

AMENDATORY SECTION (Amending Order 1913, filed 12/12/86)

WAC 16-212-070 OFFICIAL SERVICES UNDER THE AGRICULTURAL MARKETING ACT OF 1946.

(1) ((~~Hay inspection:~~

~~(a) Complete inspection (minimum charge $30.00), per ton ..... $ 1.00~~

~~(b) Factor inspection (minimum charge $20.00), per ton ..... $ 1.00~~

~~(c) Submitted sample inspection, per sample ..... $ 5.00~~

~~(2)~~)) Inspection ((~~of beans, dry peas, lentils, and similar~~)) or analysis of graded and nongraded commodities.

(a) Inspection of bagged commodities at inspection points, per cwt ..... $ 0.06

(b) Bulk commodity inspection at inspection points, per ton ..... $ 0.28

(c) Minimum charge for bulk or bagged commodities (one hour) ..... $ 23.00

(d) Submitted sample inspection, per sample ..... $ 13.00

((~~(3)~~)) (2) Weighing and combination inspection/weighing services for bulk commodities.

(a) Weighing only, other than grain, per ton ..... $ 0.11

(b) Combination inspection/weighing of bulk commodities under federal grade standards, state standards, or for factor determinations, per ton ..... $ 0.12

(c) Weigh grain by-products into portable containers including fitness examination of the container, weigh and sample the by-product (thirty ton maximum) ..... $ 14.00

((~~(4)~~)) (3) Factor analysis.

(a) Moisture only ..... $ 5.00

(b) Additional factors, the determination of which are not required to establish grade, or otherwise not required by regulation, added to an existing certificate, per factor ... $ 2.50

(c) Certification, factor only (maximum two factors), per certificate ..... $ 3.00

(d) Additional factors added to a factor certificate, per factor ..... $ 2.50

(A maximum of $13.00 will be charged for grading factors only.)

(e) Analysis of rapeseed for official factors, per certificate ..... $ 13.00

(f) If official inspection is required for rapeseed, the applicable sampling only fee shall be assessed in addition to the factor analysis fee.

((~~(5)~~)) (4) Sampling only, bulk commodities.

(a) Trucks or containers, per carrier ..... $ 14.00

(b) Boxcars, open or covered hopper-type cars, per car ... $ 23.00

((~~(6)~~)) (5) Processed commodity and defense personnel support center (DPSC) inspection fees.

(a) Per man-hour, two hour minimum, rate per hour .... $ 23.00

(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the federal grain inspection service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.

((~~(7)~~)) (6) Sanitation inspections.

(a) Initial inspection ..... no charge

(b) Reinspections, four hour minimum, per man-hour ... $ 23.00

((~~(8)~~)) (7) Stowage examinations under the Agricultural Marketing Act shall be subject to the rates, restrictions, and conditions cited in WAC 16-212-060 (13) and (14).

((~~(a) Ships and vessels:~~

~~(i) Initial inspection, basic fee ..... $150.00~~

~~(ii) Subsequent inspections, basic fee ..... $100.00~~

~~(iii) In addition to the basic fee, there shall be levied a fee of $23.00 per hour, per inspector.~~

~~(iv) These inspections shall be subject to the same restrictions and conditions as ship stowage examinations under the United States Grain Standards Act, as per WAC 16-212-060 (11)(d)(i) through (iv).~~

~~(b) Other stowage examinations shall be at the rate prescribed for containers listed in WAC 16-212-060(12).~~

~~(9) Aflatoxin~~)) (8) Mycotoxin testing fees.

(a) ((~~Black light and/or minicolumn~~)) Screening or quantitative testing determinations, except thin layer chromatography per ((~~hour, per inspector~~)) test ..... $ ((~~23.00~~)) 35.00

(b) ((~~Minicolumn determination, per test ..... $ 15.60~~

~~(c)~~)) Thin layer chromatography ((~~fees and/or minicolumn fees, if applicable,~~)) determinations will be assessed ((~~for laboratory analyses~~)) at a rate identical with the ((~~amount~~)) fees charged by the Federal Grain Inspection Service ((~~for that test~~)).

((~~(10)~~)) (9) Falling numbers determinations, per determination ..... $ 12.00

Liquefaction number, per determination ..... $ 0.50

AMENDATORY SECTION (Amending Order 1836, filed 7/2/84)

WAC 16-212-080 MISCELLANEOUS FEES.

(1) Mailing of samples shall be charged at actual mailing costs, minimum charge ..... $2.00

(2) Fee for pickup of samples on routes established by the department, per sample ..... $0.60

(3) Fees for services performed at places other than established grain and commodity inspection points.

(a) Travel time, per employee, will be charged at the applicable straight time or overtime rate from office to inspection point and return.

(b) Car mileage will be charged at the current published department of general administration rates (WAC 82-28-080), except where suitable transportation is provided by the applicant.

(c) If the travel is of sufficient duration to require payment of subsistence or per diem to the employee, an amount equal to the established subsistence and/or per diem rate (WAC 82-28-040 and 82-28-050) shall be assessed, except where applicable subsistence and lodging are furnished, or paid, by the applicant.

(d) Incidental costs of telephone, mailing, etc. shall be at actual cost.

(e) Facsimile transmissions, per page ..... $1.00

(4) Certificate charges for certificates under the United States Grain Standards Act or the Agricultural Marketing Act of 1946.

(a) Divided original certificates, per certificate ..... $1.50

(b) Extra copies of inspection, protein, weight, falling number, commodity or aflatoxin certificates, per copy ..... $3.00

(5) Phytosanitary certification

(a) When performed in conjunction with official inspection, per certificate ..... $6.50

(b) When performed without official inspection, add sampling fee, per hour ..... $23.00

(6) Timely payment. Payment of fees and charges is due within thirty days after the date of the statement.

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

AMENDATORY SECTION (Amending Order 1913, filed 12/12/86)

WAC 16-212-082 FEES FOR SERVICES PERFORMED UNDER STATE REGULATION. (1) Inspection of cultivated buckwheat and safflower under Washington state standards shall be at the rate applicable for the same type of sample under the fees for services under the United States Grain Standards Act.

(2) Cracked corn, corn screenings, and mixed grain screenings shall be inspected and/or weighed under the tonnage rate applicable for standardized grains as per WAC 16-212-060.

(3) Unofficial (NIRR or NIRT) protein analysis (((~~barley, mixed grain, etc.~~))), per ((~~determination~~)) unit ... $ 6.25

(4) ((~~Set of ten protein reference samples (one class) standardized with the state monitoring machine, per set ..... $ 25.00~~

(~~5~~))) Rapeseed (except canola) inspection under state standards.

(a) Submitted sample for factors or grade, per sample .... $ 13.00

(b) When sampled by official personnel, add applicable sampling only fee.

(c) Export inspection and weighing in bulk, per ton..... $ 0.12

(d) Inspection of bagged rapeseed, per cwt..... $ 0.06

(e) Fees for laboratory determination of erucic acid((;)) and/or glucosinolate ((~~level~~)) and/or oil content((~~, per set of tests ..... $ 50.00~~)) will be identical to the fees assessed by the Federal Grain Inspection Service.

Note: This fee is applied in addition to the inspection fee for grading under state standards.

(5) For other laboratory analysis not identified herein, a fee will be assessed for each test or analysis identical with the amount charged by USDA or Washington state agency laboratories.

## WSR 92-11-074
### PROPOSED RULES
### DEPARTMENT OF AGRICULTURE
[Filed May 20, 1992, 10:47 a.m.]

Original Notice.

Title of Rule: Chapter 16-403 WAC, Standards for apples marketed within Washington.

Purpose: To update the existing grade standards to more accurately reflect current marketing conditions of the apple industry and to establish minimum maturity requirements of the Granny Smith variety.

Statutory Authority for Adoption: Chapter 15.17 RCW.

Statute Being Implemented: Chapter 15.17 RCW.

Summary: The proposal establishes minimum maturity requirements for early season shipment of Granny Smith variety. Additional revisions will permit designation of fruit minimum size by weight in addition to, or in lieu of diameter measurement; permit labeling of contents of open "tote" bags by use of volume, and relaxes the shape requirement of the Washington extra fancy grade of green and yellow varieties to correspond to the requirements of the Golden Delicious variety.

Reasons Supporting Proposal: The Granny Smith variety is being produced in sufficient commercial volume that maturity regulations are needed to ensure that early season quality is maintained at a level which is acceptable to consumers. The other changes proposed are necessary to provide added marketing flexibility for the producers and trade.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James R. Archer, Olympia, Washington, (206) 753-5054.

Name of Proponent: Grade and Pack Committee, Washington State Horticultural Association, private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule is a fresh apple grade standard and is used for commercial trading purposes. Quality, size, maturity, and condition are regulated through this standard.

Proposal Changes the Following Existing Rules: The minimum maturity requirement for Granny Smith variety is a new regulation. The shape requirements of extra fancy grade, green and yellow varieties is being relaxed to conform to the existing standard for Golden Delicious. Labeling of consumer packages, such as open "tote" bags, will be amended to permit volume as a statement of contents. Fruit size designation by weight will be permitted as well as by diameter measurement.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion Inn, 1225 North Wenatchee Avenue, Wenatchee, WA, on June 30, 1992, at 10:00 a.m.; and at the Holiday Inn, 9 North Ninth Street, Yakima, WA, on July 1, 1992, at 10:00 a.m.

Submit Written Comments to: James R. Archer, Program Manager Fruit/Vegetable, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by July 1, 1992.

Date of Intended Adoption: July 13, 1992.

May 20, 1992
J. Allen Stine
Assistant Director

NEW SECTION

WAC 16-403-143 GRANNY SMITH—STARCH-IODINE REQUIREMENTS. Prior to the general release date for harvest of the crop of the current growing season, as established by the Delicious maturity committee of the Washington state horticultural association, shipment shall not be allowed of apples of the Granny Smith variety which fail to meet the stage of maturity as indicated by starch-iodine rating of 1.2 on the Cascade Analytical Inc. chart: PROVIDED, That any such lot of apples may be shipped if not more than ten percent of the apples tested fail to meet the 1.2 rating.

AMENDATORY SECTION (Amending Order 1892, filed 6/25/86)

WAC 16-403-160 GREEN OR YELLOW VARIETIES—WASHINGTON EXTRA FANCY. Washington extra fancy consists of apples of one variety which are mature but not overripe, carefully hand picked, clean, fairly well formed((~~: PROVIDED, That the Golden Delicious variety shall be fairly well formed~~)); free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible watercore, broken skins and bruises except

those which are slight and incident to proper handling and packing. The apples are also free from slightly rough or rough russeting, provided, russeting other than rough or bark-like russeting materially affecting the appearance of the apple shall be permitted in the stem cavity or calyx basin if it cannot be seen when the apple is placed stem end or calyx end down on a flat surface. The apples are also free from injury caused by smooth net-like russeting, smooth solid russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, stem or calyx cracks, or other means; and free from damage by invisible watercore after January 31st of the year following the year of production. Each apple of this grade has the amount of color specified in WAC 16-403-175 for the variety.

AMENDATORY SECTION (Amending Order 2032, filed 4/11/90, effective 5/12/90)

WAC 16-403-190 TOLERANCES. In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(1) Defects: Washington extra fancy, Washington fancy and Washington C grade.

Ten percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged, including therein not more than one percent for apples affected by decay or internal breakdown.

(2) When applying the foregoing tolerances to combination grades, no part of any tolerance shall be allowed to reduce, for the lot as a whole, the percent of apples of the higher grade required in the combination.

Combinations requiring 80 percent of the higher grade for the lot shall have not less than 65 percent of the higher grade in individual samples.

Combinations requiring 50 percent of the higher grade for the lot shall have not less than 40 percent of the higher grade in individual samples.

(3) Size. When size is designated by the numerical count for a container, not more than 5 percent of the apples in the lot may vary more than 1/4 inch in diameter. When size is designated by minimum or maximum diameter or weight, not more than 5 percent of the apples in any lot may be smaller than the designated minimum and not more than 10 percent may be larger than the designated maximum.

(4) Firmness. Not more than ten percent of the apples in any lot of Red Delicious, Delicious, and Golden Delicious varieties shall fail to meet the firmness requirements as defined in WAC 16-403-142.

AMENDATORY SECTION (Amending Order 1475, filed 7/2/76)

WAC 16-403-200 CALCULATION OF PERCENTAGES. (1) When the numerical count is marked on the container, percentages shall be calculated on the basis of count.

(2) When the minimum diameter and/or minimum weight of individual apples, or minimum and maximum diameters and/or weights of individual apples are marked on a container or when the apples are jumbled in a container or in bulk, percentages shall be calculated on the basis of weight or an equivalent basis.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

WAC 16-403-220 MARKING REQUIREMENTS—OPEN OR CLOSED CONTAINERS. (1) The containers shall bear the correct name of the variety or "variety unknown," the name of the grower, packer, or distributor, and his address, the grade, the numerical count or the minimum diameter of apples packed in a closed container, and the net contents either in terms of dry measure or weight. The minimum weight of individual apples within the container may be stated in lieu of, in combination with, or in addition to, minimum diameter as a declaration of size. All open containers and consumer packages must bear statement of net weight ((~~without exception~~)) or volume.

(a) When the numerical count is not shown, the minimum diameter or minimum weight of individual apples shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, or whole inches and not less than eight inch fractions thereof or in terms of whole grams.

(b) When used in combination with minimum diameter as a size designation, the following minimum fruit weights shall be used:

| Red Delicious | Golden Delicious |
|---|---|
| 2 1/8 in. or 65 grams | 63 grams |
| 2 1/4 in. or 75 grams | 70 grams |
| 2 3/8 in. or 84 grams | 82 grams |
| 2 1/2 in. or 100 grams | 95 grams |
| 2 5/8 in. or 115 grams | 109 grams |
| 2 3/4 in. or 139 grams | 134 grams |

(c) The word "minimum," or its abbreviation, when following a diameter size or weight size marking, means that the apples are of the size marked or larger.

(2) Over-wrapped consumer units may be marked with count, if all specimens can be counted.

(3) Any of these marks may be placed on either the end or side of the container. (California requires end markings.)

(4) When containers are marked as to number, each container shall contain the correct number of apples designated by the markings.

(5) Grade markings on consumer-type packages must be at least one-fourth inch in height.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

WAC 16-403-240 DIAMETER OR FRUIT WEIGHT. When measuring for minimum size, "diameter" means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size "diameter" means the smallest dimension of the apple determined by passing the apple through a round opening in any position. When measuring for minimum weight as a designation of fruit size, the individual apple must meet the minimum weight designation as marked on the container or package.

## WSR 92-11-075
### PROPOSED RULES
### DEPARTMENT OF NATURAL RESOURCES
[Filed May 20, 1992, 11:07 a.m.]

Original Notice.

Title of Rule: WAC 332-24-217 Burning permit requirements—Penalty, 332-24-271 Fires for improving fire dependent ecosystems, 332-24-201 Burning permit program—Requirements and exceptions, 332-24-205 General rules—Minimum requirements for all burning, 332-24-211 Specific rules for small fires not requiring a written permit, and 332-24-221 Specific rules for burning that requires a written permit.

Purpose: These rules implement chapter 70.94 RCW amendments and provide clarification by reorganizing existing rules.

Statutory Authority for Adoption: RCW 76.04.015, 76.04.205, and 70.94.660.

Statute Being Implemented: RCW 70.94.660 and 76.04.205.

Summary: These rules improve the clarity and understanding of the requirements for outdoor burning on lands under the protection of the department. They establish a fee schedule and payment requirement for obtaining a burning permit. They also establish additional requirements for outdoor burning.

Reasons Supporting Proposal: Chapter 70.94 RCW required that the department make changes in its burning permit program. These rules will meet those requirements and improve general understanding of the department's outdoor burning regulations, prohibitions and penalties.

Name of Agency Personnel Responsible for Drafting and Enforcement: George Flanigan, P.O. Box 47037, Olympia, 459-6900; and Implementation: Ken Hoover, P.O. Box 47037, Olympia, 459-6900.

Name of Proponent: Washington State Department of Natural Resources, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 332-24-201, this section describes the departments authority to issue burning permits and where the department has that authority; WAC 332-24-205, this section describes the requirements and prohibitions for all burning under the department's authority. This section also describes the departments authority to restrict, regulate, refuse, revoke or postpone outdoor fires under its jurisdiction. It further cites the smoke management plan as a source of additional requirements; WAC 332-24-211, this section describes the conditions that must be met in order to burn on the department's jurisdiction without a written burning permit; WAC 332-24-217, this section describes the penalty for failure to comply with the rules of this chapter. It also allows the department to recover costs for controlling or extinguishing an illegal fire; WAC 332-24-221, this section describes the conditions under which a written permit must be obtained for outdoor burning on the department's jurisdiction. Those conditions include payment of a permit fee according to the fee schedule listed as well as compliance with the smoke management plan in effect at the time of burning; and WAC 332-24-271, this section describes the process for burning in certain designated areas and allows burning within air quality nonattainment areas under certain conditions.

Proposal Changes the Following Existing Rules: WAC 332-24-201, these changes clarify where the department regulates outdoor burning, the type of outdoor burning not covered under these rules and that the department administers air quality protection on its jurisdiction. Other changes are organizational only; WAC 332-24-205, these changes incorporate language from chapter 70.94 RCW into these regulations. The net effect is to increase the number conditions under which outdoor burning is not allowed and describes actions required to extinguish a fire when air quality becomes impaired. It requires that a person call the department prior to lighting any outdoor fire regulated by the department. It also makes the Washington state smoke management plan requirements a requirement for burning. Other changes are organizational only; WAC 332-24-211, this changes the burn pile sizes allowed in various counties during certain periods of the year without requiring a written permit. Other changes are organizational only; WAC 332-24-217, explains penalties, possible future prohibitions from burning and possible cost recovery for control of illegal burning caused in whole or in part by negligent acts or omissions; WAC 332-24-221, these changes describe how long a written permit is valid and what the cost for a permit will be. Explains what constitutes a valid permit, including the need to comply with the Washington state smoke management plan requirements; WAC 332-24-271, allows burning where other outdoor burning is not allowed, in certain designated areas under specific conditions; and repealing WAC 332-24-215 Recreation and debris fire requirements—Penalty, 332-24-231 Burning permits—Yacolt burn in portions of Clark and Skamania counties, 332-24-232 Exemption from burning permit requirements—Parts of Clark and Wahkiakum counties, 332-24-234 Exemption from burning permit, requirements—Parts of Okanogan county, 332-24-236 Exemption from burning permit requirements—Parts of Asotin, Garfield, Columbia and Walla Walla counties, 332-24-238 Exemption from burning permit requirements—Parts of Cowlitz county, 332-24-240 Exemption from burning permit requirements—Parts of Snohomish county, 332-24-242 Exemption from burning permit requirements—Parts of Skagit county, 332-24-244 Exemption from burning permit requirements—Parts of Pacific and Grays Harbor counties, and 332-24-656 Preexisting hazards.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: DNR Office in Colville, on June 23, 1992, at 7:00 p.m., 225 South Silke Road, Colville, WA; and at the Lacey City Hall, on June 24, 1992, at 7:00 p.m., 420 College Street, Lacey, WA.

Submit Written Comments to: George Flanigan, P.O. Box 47037, Olympia, WA 98504-7037, by June 23, 1992.

Date of Intended Adoption: June 25, 1992.

May 19, 1992
James A. Stearns
Supervisor

AMENDATORY SECTION (Amending Order 583, filed 9/24/91, effective 10/16/91)

WAC 332-24-201 ((~~WRITTEN~~)) BURNING PERMIT PROGRAM—REQUIREMENTS AND EXCEPTIONS. Under authority granted in RCW 76.04.015 and 76.04.205, the following regulation is hereby promulgated:

(1) The department is responsible, by law, for the granting of burning permits for ((~~certain types of outdoor fire;~~)) burning on lands it protects; and

(2) The department ((~~aids in~~)) administers the protection of air quality ((~~under its smoke management program;~~)) as provided in chapter 70.94 RCW resulting from burning on lands under its protection; and

(3) ((~~Pursuant to its authority and responsibility;~~)) The department has ((~~studied and~~)) determined that the effects of such burning on life, property and air quality ((~~to be~~)) are of year-round effect; therefore

(4) Throughout the year, outdoor fire is prohibited ((~~within any department~~)) on lands protected by the department where forest protection assessment ((~~area unless~~)) is being, or is subject to being, assessed unless:

(a) A written burning permit is obtained from the department and ((~~signed by the permittee and afterwards, having the permit in possession while burning and complying with the terms of such permit. Except, a written burning permit for an outdoor fire is not required from the department under the following conditions:~~

~~(a) In certain geographic areas of the state as designated by the department in this chapter;~~

~~(b) When the outdoor fire is:~~

~~(i) Contained within a campfire pit, approved by the department, located in a state, county, municipal, or other campground;~~

~~(ii) Contained within a camp stove or barbecue situated on bare soil, gravel bars, beaches, green field, or other similar areas free of flammable material for a sufficient distance adequate to prevent the escape of fire;~~

~~(c) When the general rules and requirements specified in WAC 332-24-205 and 332-24-211 and the conditions for the protection of~~

~~life, property and air quality are met~~)) the requirements of WAC 332-24-205 and 332-24-221 are followed; or

(b) Burning meets the regulations outlined in WAC 332-24-205 and 332-24-211.

(5) This chapter applies to all burning on lands protected by the department. It does not apply to agricultural burning as defined in WAC 173-425-030(1) nor to open burning as defined in WAC 173-425-030(2).

AMENDATORY SECTION (Amending Order 504, filed 5/8/87)

WAC 332-24-205 GENERAL RULES—((~~RECREATIONAL OR DEBRIS DISPOSAL FIRES NOT REQUIRING A WRITTEN BURNING PERMIT~~)) MINIMUM REQUIREMENTS FOR ALL BURNING. The following rules apply to all burning regulated by the department:

(1) The department reserves the right to restrict, regulate, refuse, revoke or postpone outdoor fires under RCW 76.04.205 and 76.04.315, and chapter 70.94 RCW due to adverse fire weather or to prevent restriction of visibility, excessive air pollution or a nuisance.

(2) ((~~The Yacolt burn area, located in portions of Clark and Skamania Counties, is exempt from these rules, and that area requires a written burning permit throughout the year.~~

~~(3) This section does not apply:~~

~~(a) On lands protected by the department within incorporated city limits;~~

~~(b) On lands protected by the department situated within a fire protection district where the fire protection for those lands has been contracted to the fire protection district, except where the district has incorporated these rules into their regulations;~~

~~(c) On lands protected by the department situated within fire protection districts which have adopted a resolution pursuant to chapter 52.12 RCW assuming the authority to issue burning permits on improved property and where such resolution prohibits burning by rules which allow burning without a written burning permit;~~

~~(d) On lands protected by the department where air pollution authorities have prohibited fires for smoke management purposes that fall under these regulations.~~)) Burning shall not be allowed within nonattainment areas of the state as established by Washington department of ecology for particulate matter ten microns or less or carbon monoxide, except for:

(a) Fires for improving and maintaining fire dependent ecosystems; or

(b) Fires for training wildland fire fighters; or

(c) Fires set for a defined research project; or

(d) Military training exercises; or

(e) Where exempted by local or state air pollution control agencies.

(3) Burning shall not be allowed inside urban growth areas as designated under growth management plans, or in cities of greater than ten thousand population as follows:

(a) In urban growth areas where reasonable alternatives exist.

(b) In cities with a population of ten thousand or more as established by the office of financial management:

(i) That exceed or threaten to exceed federal or state ambient air quality standards; and

(ii) Where reasonable alternatives to outdoor burning exist, in accordance with WAC 173-425-090.

(c) After December 31, 2000, burning shall not be allowed in urban growth areas or cities with a population of ten thousand or more.

(4) No fires shall be ignited when:

(a) The department of ecology has declared an air pollution episode for the geographic area pursuant to chapter 173-435 WAC; or

(b) The department of ecology or a local air pollution control authority has declared impaired air quality for the geographic area in which the burning is to be done.

(5) A person responsible for a burn at the time an episode or impaired air quality is called pursuant to chapter 173-425 WAC, shall extinguish the fire by:

(a) Withholding fuel from the burn;

(b) Allowing the fire to burn down; and

(c) Aggressively putting out the fire until there is no visible smoke, unless otherwise allowed by the department.

(6) Prior to lighting, the person doing the burning must telephone the department, and obtain any special instructions for the day and location of the proposed burn. Those instructions thereupon become part of the conditions of burning.

(7) The fire must not include rubber products, plastic products, asphalt, garbage, dead animals, petroleum products, paints, or any similar prohibited materials that emit dense smoke or create offensive odors when burned, pursuant to RCW 70.94.775(1).

(8) If the fire creates a nuisance from smoke or flying ash, it must be extinguished. For purposes of this section, a nuisance exists when emissions from any open fire cause physical discomfort or health problems to people residing in the vicinity of the burning or physical damage to property.

(9) Burning within the department's fire protection areas shall not:

(a) Cause visibility to be obscured on public roads and highways by the smoke from such fires; or

(b) Endanger life or property through negligent spread of fire or pollutants.

(10) A person capable of extinguishing the fire must attend the fire at all times and the fire must be completely extinguished before being left unattended.

(11) No fires are to be within fifty feet of structures, or within five hundred feet of forest slash without a written burning permit.

(12) The landowner or landowner's designated representative's written permission must be obtained before kindling a fire on the land of another.

(13) The department reserves the authority to provide waivers, exceptions, and/or to impose additional requirements through the use of written burning permits and the smoke management plan.

AMENDATORY SECTION (Amending Order 583, filed 9/24/91, effective 10/16/91)

WAC 332-24-211 ((~~REQUIREMENTS—RECREATIONAL OR DEBRIS DISPOSAL FIRES~~)) SPECIFIC RULES FOR SMALL FIRES NOT REQUIRING A WRITTEN BURNING PERMIT. (((~~(1) The fire must not include rubber products, plastics, asphalt, garbage, dead animals, petroleum products, paints, or any similar materials that emit dense smoke or create offensive odors when burned, pursuant to RCW 70.94.775(1).~~

~~(2) A person capable of extinguishing the fire must attend the fire at all times and the fire must be extinguished before leaving it.~~

~~(3) No recreational or debris disposal fires are to be within fifty feet of structures.~~

~~(4) A recreational fire shall be in a hand-built pile no larger than four feet in diameter and a written burning permit is not required. A serviceable shovel must be within the immediate vicinity of the fire.~~

~~(5) A debris disposal fire requiring a written burning~~)) In addition to WAC 332-24-205, the following rules shall apply to burning regulated by the department that does not require a written burning permit. A written burning permit is not required from the department under the following conditions:

(1) In certain geographic areas of the state as designated by the department in subsections (3) through (6) of this section; or

(2) When the fire is:

(a) Contained within a campfire pit, approved by the department, located in a state, county, municipal, or other campground;

(b) Contained within a camp stove or barbecue;

(c) A hand-built pile no larger than four feet in diameter that is being used exclusively for recreational purposes; and

(d) Situated on bare soil, gravel bars, beaches, green field, or other similar areas free of flammable material for a sufficient distance adequate to prevent the escape of fires;

(3) A burn that does not require a written permit has established size limitations based on time of year and the county within which the burning occurs.

(a) From July 1 to October 15 individual pile size in all counties shall be limited to no larger than ((~~that indicated in the following table:~~)) four feet, except pile size in Clallam and Jefferson counties is limited to ten feet.

((~~SUMMER RULES~~

| ~~Burning Permit Required For All Fires~~ | ~~Four Foot Piles~~ | ~~Ten Foot Piles~~ |
|---|---|---|
| ~~Asotin~~ | ~~Clark~~ | ~~Clallam~~ |
| ~~Chelan~~ | ~~Cowlitz~~ | ~~Jefferson~~ |
| ~~Columbia~~ | ~~Grays Harbor~~ | |
| ~~Ferry~~ | ~~Island~~ | |
| ~~Garfield~~ | ~~King~~ | |
| ~~Kittitas~~ | ~~Kitsap~~ | |

| Burning Permit Required For All Fires | Four Foot Piles | Ten Foot Piles |
|---|---|---|
| Klickitat | Lewis | |
| Lincoln | Mason | |
| Okanogan | Pacific | |
| Pend Oreille | Pierce | |
| Spokane | San Juan | |
| Stevens | Skagit | |
| Walla Walla | Skamania | |
| Yakima | Snohomish | |
| | Thurston | |
| | Wahkiakum | |
| | Whatcom)) | |

(b) From October 16 through June 30 individual pile size in all counties is limited to ten feet; except ((the following counties are limited to four feet:)) pile size is limited to four feet in Island, King, Kitsap, Mason, Pierce, San Juan, and Spokane counties.

((WINTER RULES

| Four Foot Piles |
|---|
| Island |
| King |
| Kitsap |
| Mason |
| Pierce |
| San Juan |
| Spokane |

(c))) (4) A serviceable shovel and a minimum of five gallons of water must be within the immediate vicinity of the fire. A bucket is acceptable if the outdoor fire is adjacent to an accessible body of water. A charged garden hose or other adequate water supply may be substituted for the five gallon water requirement.

(((6))) (5) Only one pile may be burned at any one time and each pile must be extinguished before lighting another.

(((7) No outdoor fire is permitted in or within five hundred feet of forest slash without a written burning permit.

(8) The material to be burned must be placed on bare soil, gravel bars, beaches, green fields or other similar area free of flammable material for a sufficient distance adequate to prevent the escape of the fire.

(9))) (6) Burning must be done during periods of calm to very light winds. Burning when wind will scatter loose flammable materials, such as dry leaves and clippings, is prohibited.

(((10) If the fire creates a nuisance from smoke or fly ash, it must be extinguished.

(11) A landowner or the landowner's designated representative's written permission must be obtained before kindling an outdoor fire on the property of another.

(12) Persons not able to meet the requirements of subsections (1) through (10) of this section must apply for a written burning permit through the department.))

NEW SECTION

WAC 332-24-217 BURNING PERMIT REQUIREMENTS—PENALTY. Failure to comply with the rules in chapter 332-24 WAC voids permission to burn. Any person burning without complying with chapter 332-24 WAC is in violation of RCW 76.04.205 and chapter 70.94 RCW. Convictions or bail forfeitures in connection with illegal burning under chapter 332-24 WAC may result in refusal to issue further permits for a two-year period from the date of the illegal burning. In addition to any other fines and penalties that may be imposed, the department may charge and recover costs from the person responsible for any response to control or extinguish an illegal fire caused in part or in whole by negligent acts or omissions.

AMENDATORY SECTION (Amending Order 504, filed 5/8/87)

WAC 332-24-221 SPECIFIC RULES FOR BURNING THAT REQUIRES A WRITTEN BURNING PERMIT((S)). (((1) Written burning permits will be required throughout the year for fires set under any of the following conditions:

(a) Broadcast burning of logged areas or unimproved lands; or

(b) Burning of logging landings; or

(c) Burning of debris resulting from the scarification of forest lands; or

(d) Under-burning of forest lands; or

(e) Burning of waste forest material resulting from the clearing of utility or public road rights of way that run through or adjacent to forest lands; or

(f) Burning of mill waste from forest products or any other material which has been transported to and dumped in concentrations on forest lands.

(2) All outdoor fires within the department's protection areas which are not required to have a written burning permit shall not:

(a) Include rubber products, plastics, asphalt, garbage, dead animals, petroleum products, paints, or any similar materials that emit dense smoke or create offensive odors when burned, as pursuant to RCW 70.94.775(1); or

(b) Cause visibility to be obscured on public roads and highways by the smoke from such fires; or

(c) Endanger life or property through negligent spread of fire.)) Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be twenty dollars for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

| Consumable Debris | Fee Schedule |
|---|---|
| 100 – 500 tons | $ 100 |
| 501 – 1,000 tons | 300 |
| 1,001 – 1,500 tons | 500 |
| 1,501 – 2,000 tons | 700 |
| 2,001 – 2,500 tons | 900 |
| 2,501 – 3,000 tons | 1,100 |
| 3,001 – 3,500 tons | 1,300 |
| 3,501 – 4,000 tons | 1,500 |
| 4,001 – 4,500 tons | 1,700 |
| 4,501 – 5,000 tons | 1,900 |
| 5,001 – 5,500 tons | 2,100 |
| 5,501 – 6,000 tons | 2,300 |
| 6,001 – 6,500 tons | 2,500 |
| 6,501 – 7,000 tons | 2,700 |
| 7,001 – 7,500 tons | 2,900 |
| 7,501 – 8,000 tons | 3,100 |
| 8,001 – 8,500 tons | 3,300 |
| 8,501 – 9,000 tons | 3,500 |
| 9,001 – 9,500 tons | 3,700 |
| 9,501 – 10,000 tons | 3,900 |
| 10,001 + tons | 4,100 |

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

NEW SECTION

WAC 332-24-271 FIRES FOR IMPROVING AND MAINTAINING FIRE DEPENDENT ECOSYSTEMS. (1) All burning to improve and maintain fire dependent ecosystems within Conservation

Areas and Natural Area Preserves shall be accomplished under a burning plan that has been approved by the department's land and water conservation division and fire control division managers. The burning plan must be a part of a total management plan approved by the land and water conservation division.

(2) Burning for this purpose may be allowed inside nonattainment areas, or urban growth areas.

(3) Burning for this purpose shall not be allowed during periods of air pollution episodes or air quality impairment called under chapter 173-425 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 332-24-215 RECREATION AND DEBRIS DISPOSAL FIRE REQUIREMENTS—PENALTY.
WAC 332-24-231 BURNING PERMITS—YACOLT BURN IN PORTIONS OF CLARK AND SKAMANIA COUNTIES.
WAC 332-24-232 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF CLARK AND WAHKIAKUM COUNTIES.
WAC 332-24-234 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF OKANOGAN COUNTY.
WAC 332-24-236 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF ASOTIN, GARFIELD, COLUMBIA AND WALLA WALLA COUNTIES.
WAC 332-24-238 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF COWLITZ COUNTY.
WAC 332-24-240 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF SNOHOMISH COUNTY.
WAC 332-24-242 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF SKAGIT COUNTY.
WAC 332-24-244 EXEMPTION FROM BURNING PERMIT REQUIREMENTS—PARTS OF PACIFIC AND GRAYS HARBOR COUNTIES.
WAC 332-24-656 PREEXISTING HAZARDS.

## WSR 92-11-076
### PERMANENT RULES
### DEPARTMENT OF AGRICULTURE
[Filed May 20, 1992, 11:08 a.m.]

Date of Adoption: May 20, 1992.

Purpose: To update the existing grade standards to more accurately reflect marketing conditions of the peach industry and to duplicate current quality requirements of the federal marketing order.

Citation of Existing Rules Affected by this Order: Amending chapter 16-436 WAC.

Statutory Authority for Adoption: Chapter 15.17 RCW.

Pursuant to notice filed as WSR 92-08-106 on April 1, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 20, 1992
Michael V. Schwisow
for C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-100 WASHINGTON EXTRA FANCY GRADE. (1) Shall consist of peaches of one variety which are mature, but not soft or overripe; fairly well formed; and which are free from decay, broken skin, worms, worm holes; and free from damage caused by bruises; dirt or other foreign material; bacterial spot; scab; scale; growth cracks; hail injury; leaf or limb rubs or russeting; split pits; stem pull; rough suture; other diseases, insects or mechanical or other means.

(2) Size. Such peaches shall measure not less than 2-1/4 inches in diameter: PROVIDED, That such peaches shall also meet requirements of WAC 16-436-187 Minimum size. Definitions for the above grade will be found under WAC 16-436-160, 16-436-180, 16-436-185, 16-436-190, 16-436-200, 16-436-210, and 16-436-220.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-110 WASHINGTON FANCY GRADE. (1) Shall consist of peaches of one variety which meet all of the requirements of Washington extra fancy: PROVIDED, Split pit not to exceed 3/8 inch in length shall be allowed. Damage, but not serious damage, for rough suture shall be allowed in this grade.

(2) Size. Such peaches shall measure not less than 2-1/4 inches in diameter: PROVIDED, That such peaches shall also meet requirements of WAC 16-436-187 Minimum size. Definitions for the above grade will be found under WAC 16-436-165, 16-436-180, 16-436-185, 16-436-190, 16-436-200, 16-436-210, and 16-436-220.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-140 CULL GRADE. Shall consist of peaches which are ((~~immature or soft or seriously damaged by bruises; bacterial spot; scab; scale; growth cracks; hail injury; leaf or limb rubs; split pits; or other diseases, insects or mechanical or other means. Definitions for the above grade will be found under WAC 16-436-150, 16-436-200, and 16-436-220~~)) not graded in conformity with the foregoing grades.

AMENDATORY SECTION (Amending Order 1203, filed 5/14/71, effective 6/14/71)

WAC 16-436-150 CULL PEACH REQUIREMENTS. Cull peaches ((~~must~~)) shall be packed in one bushel baskets, ring faced with the peaches in the ring representative of the size, and quality of the peaches in the baskets and the baskets lidded, and the words "CULL PEACHES" ((~~must~~)) shall appear on the top and side of the basket in which they are shipped and upon labels upon the basket in clear and legible letters at least 2-1/2 inches high, and the name and address of the grower, shipper, or packer, and the variety, minimum diameter, and net weight ((~~must~~)) shall be legibly stamped upon the lid or appear upon the labels in letters at least 1/2 inch high. Every bill of lading, invoice, memorandum and other documents referring to said peaches shall designate them as cull peaches.

NEW SECTION

WAC 16-436-166 TOLERANCES—SIZE. In order to allow for variations incident to proper sizing, not

more than 10% by count, of the peaches in any lot may be below the specified minimum size and not more than 15% may be above any specified maximum size.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-185 WASHINGTON STANDARD PACK. Applies to all grades except CULLS.

(1) Each package shall be packed so that the peaches in the shown face shall be ((~~reasonable~~)) reasonably representative in size, color and quality of the contents of the package.

(2) Baskets. Peaches packed in U.S. Standard bushel baskets, or half-bushel baskets shall be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the peaches within the packages when lidded.

(3) Boxes. Peaches packed in standard western boxes shall be reasonably uniform in size and arranged in the packages according to the approved and recognized methods. Each wrapped peach shall be fairly well enclosed by its individual wrapper. All packages shall be well filled and tightly packed but the contents shall not show excessive or unnecessary bruising because of overfilled packages. The number of peaches in the box shall not vary more than 4 from the number indicated on the box.

(4) Peaches packed in other type boxes such as ((~~wire-bound boxes and~~)) fibre-board boxes or corrugated cartons may be place packed, or jumble packed faced, and all packs shall be well filled.

(5) Peaches packed in boxes equipped with cell compartments or molded trays shall be of the proper size for the cells or the molds in which they are packed.

(6) Peaches placed in individual paper cups and packed in boxes shall be in cups of the proper size for the peaches.

(7) In order to allow for variations incident to proper packing, not more than 10% of the packages in any lot may not meet these requirements.

NEW SECTION

WAC 16-436-186 CONTAINERS. (1) Fresh peaches of the Washington extra fancy grade when in loose or jumble packs shall be marketed in containers of a capacity equal to or greater than that of a western lug box and shall contain not less than twenty-six pounds net weight of peaches: PROVIDED, That such containers of peaches having less than twenty-six pounds net weight may be marketed if such containers are well filled.

(2) Fresh peaches of the Washington fancy grade or of the Washington combination extra fancy and fancy grade shall be marketed only in the standard peach box or western lug box: PROVIDED, That such containers of peaches having less than twenty-six pounds net weight may be marketed if such containers are well filled.

(3) The director may allow the use of containers not specified in WAC 16-436-185, subsections (1) and (2) of this section, WAC 16-436-187 Minimum size, and 16-436-200, as experimental containers for the purpose of test or trial marketing.

NEW SECTION

WAC 16-436-187 MINIMUM SIZE. (1) Fresh peaches of any variety, except peaches of the Elberta varieties, when packed and marketed in any container except the standard peach box, shall measure not less than 2 3/8 inches in diameter.

(2) Fresh peaches of any variety when packed and marketed in the standard peach box shall measure not less than 2 1/4 inches in diameter.

(3) Fresh peaches of the Elberta varieties when marketed in any container shall measure not less than 2 1/4 inches in diameter.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-190 MARKING REQUIREMENTS. Applies to all grades except CULLS.

(1) All containers shall be conspicuously and ((~~legible~~)) legibly stamped with the name and address of the grower, shipper or packer, the fruit variety, grade, and numerical count, or minimum diameter.

(2) When the numerical count is not shown, the minimum diameter and net weight shall be plainly stamped or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, as ((~~2~~)) 3 inches minimum, 2-1/4 inches minimum, ((~~1-7/8~~)) 2 3/8 inches minimum, in accordance with the facts. The minimum and maximum diameters may both be stated in accordance with the facts.

(3) ((~~In order to allow for variations incident to proper sizing, not more than 10% by count, of the peaches in any lot may be below the specified minimum size and not more than 15% may be above any specified maximum size.~~

~~(4)~~)) The grade shall be stamped in letters at least 1/4 inch high. The following abbreviations may be used: Washington may be abbreviated as Wash. or Wa.; extra fancy may be abbreviated as ex. fcy. or extra fcy.; fancy may be abbreviated as fcy.; combination may be abbreviated as comb.

AMENDATORY SECTION (Amending Order 1203, filed 5/14/71, effective 6/14/71)

WAC 16-436-200 DEFINITIONS. Applying to all grades.

(1) "Diameter" means the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end.

(2) "Mature" means that the peach has reached the stage of growth which will insure a proper completion of the ripening process.

(3) "Soft or overripe" means that the peach has very little resistance to pressure. Such peaches are dead ripe.

(4) "Fairly well formed" means that the shape of the peach shall not be so misshapen that the appearance is more than moderately affected, consistent with the characteristic shape of the variety.

(5) "Not badly misshapen" means that the peach may be more irregularly shaped than "fairly well formed" as defined above, but shall not be deformed to the extent of seriously affecting its utility or general appearance.

(6) The term "loose or jumble pack" shall mean that the peaches are not placed in the container in cups, compartments, or trays.

(7) The term "standard peach box" shall mean a container with minimum inside dimensions of 4 1/4 to 6 by 11 1/2 by 16 inches.

(8) The term "western lug box" shall mean any container with minimum inside dimensions of 7 by 11 1/2 by 18 inches.

(9) The term "well filled" shall mean the level of the fruit is filled to the top edge of the container sides.

(10) The term "enroute" shall mean that the peaches have left the original shipping point and are in transit or being held in an intermediate storage facility prior to arriving at the final destination.

(11) The term "at destination" shall mean the final point of delivery by commercial carrier, or the wholesale or retail facility in which peaches are held.

AMENDATORY SECTION (Amending Order 1203, filed 5/14/71, effective 6/14/71)

WAC 16-436-210 DEFINITION—DAMAGE. Applies to Wash. ex. fancy (WAC 16-436-100); Wash. fancy (WAC 16-436-110); Wash. comb. ex. fancy and fancy (WAC 16-436-120). "Damage" means any injury or defect which materially affects the appearance or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage.

(1) Bruises where any bruise discolors the flesh to a depth greater than 3/16 of an inch or discolors the skin in an area greater than 1/2 inch in diameter or smaller bruises aggregating more than 1/2 inch in diameter. Areas or depths of bruises are applicable to a peach 2-1/4 inches or smaller in diameter. Correspondingly greater areas or depths shall be allowed on ((~~definitely~~)) larger peaches((;)) as follows:

| | | |
|---|---|---|
| 2 1/2 inches in dia. | 5/9 in. area dia. | 5/24 in. deep |
| 2 3/4 inches in dia. | 11/18 in. area dia. | 11/48 in. deep |
| 3 inches in dia. | 2/3 in. area dia. | 1/4 in. deep |
| 3 1/4 inches in dia. | 13/18 in. area dia. | 13/48 in. deep |
| 3 1/2 inches in dia. | 7/9 in. area dia. | 7/24 in. deep |
| 3 3/4 inches in dia. | 15/18 in. area dia. | 5/16 in. deep |
| 4 inches in dia. | 8/9 in. area dia. | 1/3 in. deep |

(2) Bacterial spot, when cracked, or when aggregating more than 3/8 inch in diameter;

(3) Scab spot, when cracked, or when aggregating more than 3/8 inch in diameter;

(4) Scale, when concentrated, or when scattered and aggregating more than 1/4 inch in diameter;

(5) Growth cracks, when unhealed, or more than 1/2 inch in length;

(6) Hail injury which is unhealed, or deep, or when aggregating more than 1/4 inch in diameter, or more than 1/8 inch in depth;

(7) Leaf or limb rubs or russeting, exceeding 1-1/4 inches in diameter when smooth and light colored or exceeding 1/2 inch in diameter when rough or dark colored;

(8) Split pit, when causing any unhealed crack, or when causing any crack which is readily apparent, or when affecting shape to the extent that the fruit is not fairly well formed;

(9) Stem pulls larger than 1/2 inch in diameter, including stem area;

(10) Rough suture length, half way down side of peach 1/4 inch wide and 1/32 inch high.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-220 DEFINITION—SERIOUS DAMAGE. Applying to Washington extra fancy (WAC 16-436-100); Wash. fancy (WAC 16-436-110); Wash. comb. ex. fancy and fancy (WAC 16-436-120)((; ~~Wash. No. 2 (WAC 16-436-130); cull grade (WAC 16-436-140)~~)). "Serious damage" means any injury or defect which seriously affects the appearance, or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage.

(1) Bruises, when aggregated and causing a waste in excess of 10% by area on ((~~each~~)) any peach or with any one bruise causing a waste in excess of 5% by area or ((~~exceeds~~)) exceeding 3/8 of an inch in depth. Areas or depths of bruises specified are applicable to a peach 2-1/4 inches or smaller in diameter. Correspondingly greater areas or depths shall be allowed on definitely larger peaches;

(2) Bacterial spot, when any cracks are not well healed, or when aggregating more than 1/2 inch in diameter;

(3) Scab spots, when cracked, or when healed and aggregating more than one inch in diameter;

(4) Scale, when aggregating more than 1/2 inch in diameter;

(5) Growth cracks, when unhealed, or more than ((~~1/2~~)) 5/8 inch in length;

(6) Hail injury, when unhealed, or shallow hail injury when aggregating more than 3/4 inch in diameter, or deep hail injury which seriously deforms the fruit or which aggregates more than 1/2 inch in diameter, or more than 1/8 inch in depth;

(7) Leaf or limb rubs, when smooth and light colored and aggregating more than 1-1/((~~4~~))2 inches in diameter, or dark or rough and barklike scars aggregating more than 1/2 inch in diameter;

(8) Split pit, when causing any unhealed crack, or when healed and aggregating more than 1/2 inch in length including any part of the crack which may be covered by the stem;

(9) Stem pulls larger than ((~~1/2~~)) 5/8 inch in diameter, including stem area;

(10) Punctures not on the shoulder area or punctures on the shoulder area larger than 3/16 of an inch in diameter;

(11) Rough suture, entire length of suture 1/4 inch wide, 1/16 inch high.

NEW SECTION

WAC 16-436-225 ADOPTION OF UNITED STATES STANDARDS AS STATE STANDARDS. In addition to the standards for peaches prescribed in WAC 16-436-100 through 16-436-230 there are hereby adopted as additional standards of the state of Washington for peaches, and for optional use by the producer or shipper, the United States standards for grades of peaches, effective June 15, 1952, as they apply to U.S. fancy, U.S. extra no. 1, U.S. no. 1, U.S. no. 2: PROVIDED, That such peaches shall meet the requirements of WAC 16-436-100, 16-436-110, and 16-436-120.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-436-130 WASHINGTON NO. 2 GRADE.

WAC 16-436-170 TOLERANCES.

## WSR 92-11-077
### PROPOSED RULES
### DEPARTMENT OF AGRICULTURE
[Filed May 20, 1992, 11:18 a.m.]

Original Notice.

Title of Rule: Apparatus display signs.

Purpose: To set into rule minimum lettering sizes for apparatus display signs.

Statutory Authority for Adoption: Chapter 17.21 RCW.

Statute Being Implemented: Chapter 17.21 RCW.

Summary: This rule establishes minimum lettering sizes for signs displayed on apparatus used in making landscape applications or right of way applications.

Reasons Supporting Proposal: ESB 6093 was passed by the 1992 legislature requiring the department to adopt this provision into rule.

Name of Agency Personnel Responsible for Drafting and Enforcement: Cliff Weed, P.O. Box 42589, Olympia, WA 98504-2589, (206) 753-5064; and Implementation: Art G. Losey, P.O. Box 42589, Olympia, WA 98504-2589, (206) 753-5062.

Name of Proponent: Washington State Department of Agriculture, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The Washington state legislature passed ESB 6093 which required the department to set into rule lettering sizes for apparatus signs on application equipment used in making landscape and right of way applications.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Agriculture Conference Room, General Administration Building, 4th Floor, Olympia, Washington 98504, on June 24, 1992, at 1:30 p.m.

Submit Written Comments to: Cliff Weed, Program Manager, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, by June 24, 1992.

Date of Intended Adoption: June 30, 1992.

May 20, 1992
Art G. Losey
Assistant Director

NEW SECTION

WAC 16-228-214 APPARATUS DISPLAY SIGNS. (1) A certified applicator making a landscape application shall display the name and telephone number of the applicator or applicator's employer on any power equipment.

(2) A certified applicator making a right of way application shall display the name and telephone number of the applicator, or the applicator's employer and the words "vegetation management application".

(3) Apparatus display signs shall be attached to and prominently displayed on the application apparatus and shall be clearly visible.

(4) Lettering of the apparatus display signs shall be, at a minimum, two inches in height and shall be printed in colors contrasting to the background.

## WSR 92-11-078
### PERMANENT RULES
### WILDLIFE COMMISSION
[Order 544—Filed May 20, 1992, 11:43 a.m.]

Date of Adoption: April 10, 1992.

Purpose: To correct a change in the law pertaining to the number of hooks allowed while fishing.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-147.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-06-072 on March 4, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 14, 1992
Dean A. Lydig
Chair

AMENDATORY SECTION (Amending Order 174, filed 10/22/81)

WAC 232-12-147 MAXIMUM NUMBER OF FISHING LINES AND HOOKS—SNAGGING AND GAFFING FISH UNLAWFUL. It is unlawful to:

(1) Fish for game fish or attempt to take game fish in a manner other than with one line which must be under the immediate control of the angler.

(2) Fish for game fish with a line having attached to it more than ((~~2~~)) 3 hooks ((~~or lures~~)).

(3) Snag or attempt to snag game fish.

A gaff or landing net may be used to land game fish lawfully hooked.

Fresh water ling may be taken during the open season set for that species by use of set lines and multiple hooks as prescribed in current season's regulations. Set lines must have securely affixed a metal tag legibly stating the fisherman's name and address.

## WSR 92-11-079
PERMANENT RULES
## WILDLIFE COMMISSION
[Order 545—Filed May 20, 1992, 11:44 a.m.]

Date of Adoption: April 10, 1992.

Purpose: To make permanent the new language adopted by emergency measure of the Wildlife Commission on February 8, 1992, on daily catch limits and possession limits for bass in Region Four.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-06-073 on March 4, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 14, 1992
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61907 1992-94 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—BASS DAILY CATCH LIMITS (REGION 4). Notwithstanding the provisions of WAC 232-28-619, the following regulations will apply to bass limits in Region 4 (that area of the state contained within the boundaries of Island, King, San Juan, Skagit, Snohomish, and Whatcom counties and that portion of Pierce County east of a line from the mouth of the Nisqually River through Drayton Passage, Pitt Passage, Carr Inlet and the Tacoma Narrows).

| GAME FISH SPECIES | DAILY CATCH LIMITS | MINIMUM SIZE LIMITS | POSSESSION LIMITS |
|---|---|---|---|
| Bass . . . . | Five, not more than two over fifteen inches | Only bass less than twelve inches or over fifteen inches may be kept | Ten—not more than four over fifteen inches |

## WSR 92-11-080
PERMANENT RULES
## WILDLIFE COMMISSION
[Order 546—Filed May 20, 1992, 11:46 a.m.]

Date of Adoption: April 10, 1992.

Purpose: To allow fishing in the tributaries to the Kettle River during the open season of June 1 through October 31.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-06-074 on March 4, 1992.

Effective Date of Rule: Thirty-one days after filing.

May 14, 1992
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61908 1992-94 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—KETTLE RIVER. Notwithstanding the provisions of WAC 232-28-619, the game fish season for the Kettle River is as follows:

Kettle River: From the Burlington-Northern Railroad Bridge at Twin Bridges upstream to Napoleon Bridge: June 1 through March 31 season. Walleye - catch limit - 8, no more than one over 20 inches. Only walleye less than 16 inches or over 20 inches may be kept. Trout - catch limit - 2, minimum length 12 inches.

From Napoleon Bridge upstream: June 1 through October 31 season. Trout - catch limit - 2, minimum length 12 inches; bait prohibited. Only single pointed hooks may be used. Additional season: November 1 through May 31, catch and release only, barbless hooks, bait prohibited. Exception: Bait and single pointed barbed hook may be used for whitefish only November 1 through March 31.

## WSR 92-11-081
WITHDRAWAL OF PROPOSED RULES
## PARKS AND RECREATION COMMISSION
[Filed May 20, 1992, 11:55 a.m.]

The Washington State Parks and Recreation Commission hereby withdraws proposed changes to WAC 352-32-260 filed with your office on April 22, 1992, as part of WSR 92-09-160. The filing incorrectly cited WAC 352-32-265. The text changes we wanted to make were actually in WAC 352-32-260.

We will refile the changes to WAC 352-32-260 for the June 3, 1992, register.

Nina Carter
Executive Assistant

## WSR 92-11-082
PROPOSED RULES
## DEPARTMENT OF FISHERIES
[Filed May 20, 1992, 11:57 a.m.]

Original Notice.

Title of Rule: Hydraulic project rules.

Purpose: Amend rules for clarification and work prevented by hydraulic project approvals.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: Chapter 75.20 RCW.

Summary, Explanation and Anticipated Effects of Proposals

WAC 220-110-010, modifications clarify that provisions in the WAC may not be found on every HPA and that additional provisions which are not listed in the WACs may be necessary to address site specific concerns.

WAC 220-110-020, subsection (4), provides definition of "bio-engineering" which is the preferred method of bank protection on rivers and streams; subsection (5), provides definition of "change the natural flow" referred

to in RCW 75.20.100 and 75.20.103. The definition clarifies the application of the term to stormwater run-off. It is not possible to protect fish life without controlling impacts from stormwater run-off; subsection (7), changes Department of Game to Department of Wildlife to be consistent with the agency legislated name change; subsection (8), provides definition of "direct harm" to clarify its meaning as used in "protection of fish life" definition in WAC 220-110-020(34). "Direct harm" is defined to mean more than just mortality. It is not possible to protect fish life if fish can only be protected from immediate mortality; subsection (9), modification restricts meaning of "dredging" to mechanical removal of bed material. Removal of material by hand or hand held tools is not considered dredging and the provisions listed in WAC 220-110-130 usually would not apply in those situations; subsection (12), modification limits definition of "established ford," to include only those fords which existed at the time the ford language was added to RCW 75.20.100 plus those which have been permitted since then. The new language also limits the upstream/downstream separation of the ford entry and exit points. The new language is needed to clarify the intent of the original language change made to RCW 75.20.100 in 1986, which was intended to grandfather certain fords in existence prior to that date. The entry and exit point language is intended to allow continued use of existing ford crossings, where necessary, but avoid use of the stream bed as a transport corridor; subsection (14), new language defining farm and agricultural land as it is referred to in RCW 75.20.103; subsection (15), modification clarifies meaning of "filter blanket"; subsection (16), modification clarifies that "fish life" includes fish habitats. This modification recognizes how the departments have interpreted the hydraulic code since its inception in 1949. Protection of fish life requires protection of fish habitat as well as the fish, and shellfish organisms; subsection (24), new language adds "Gold and Fish" and "Irrigation and Fish" pamphlets to definition of hydraulic project approval. Compliance with provisions of these pamphlets serves as a HPA for minor hydraulic activities listed in the pamphlets; subsection (25), "impervious surface" is defined to clarify its reference in WAC 220-110-225 stormwater management. The amount of impervious surface associated with a project determines the need to obtain a hydraulic project approval; subsection (26), new language clarifies definition of "indirect harm," as used in definition of "protection of fish life" in WAC 220-110-020, to include adverse impacts to habitat; subsection (27), new language clarifies meaning of "large woody debris" referenced in the following WACs; subsection (28), new language clarifies meaning of "mean higher high water" referenced in RCW 75.20.100 and the following WACs; subsection (34), new language clarifies meaning of "protection of fish life" as it appears in RCW 75.20.100, [75.20.]103, and [75.20.]160. This language advises applicants of information requirements of a complete application for a HPA in WAC 220-110-030(2); subsection (35), the definition of "river or stream" is modified to include surface waters which influence the quality of fish habitat. It is not possible to protect fish life without regulating activities which impact influencing waters. If the departments ignore these activities, fish habitat is destroyed and other regulatory actions become meaningless. An example would be the loss of fish life in many urban streams to stormwater impacts despite aggressive hydraulic code enforcement and application; subsections (37) and (42), substitutes the word "saltwater" for "marine" to provide consistent usage of terms; subsection (39), new language clarifies meaning of "streambed stabilization" referenced in RCW 75.20.103; and subsection (43), the word "area" is changed to its plural form to accurately describe the meaning of "wetted perimeter."

WAC 220-110-030, subsection (1), the word "obtain" replaces "secure" for clarification; subsection (2), modifications clarify that a "complete" application must be submitted per RCW 75.20.100, [75.20.]103 and [75.20.]160. Application information requirements are also clarified; subsection (3), changes Department of Game to Department of Wildlife to be consistent with the agency legislated name change; subsection (3)(a) and (b), corrects mailing addresses; subsection (6), provides for expedited processing of HPAs for limited instances where it is necessary to address special resource concerns or extreme hardship. This formulates procedures already being utilized by the departments. Issuances of expedited HPAs delay issuance of other HPAs in the normal process; subsection (8), new language explains procedure for transfer of an HPA to a new permittee. Language proposed is necessary to ensure that permit conditions are enforceable and that new permittee is the responsible party, if a violation were to occur; subsection (10), new language clarifies need for a "readable" HPA to be present at the work site during construction activity; subsection (11), updates language to correspond with new language added to RCW 75.20-.103. The new language identifies certain types of HPAs associated with stream bank stabilization projects which remain in effect without need for periodic renewal; subsection (12), new language is mainly housekeeping in nature. Changes some existing language to terminology which has been defined in WAC 220-110-020; subsection (16), language has been deleted and transferred to WAC 220-110-360 that specifically references penalties; subsection (17), language has been deleted and transferred to WAC 220-110-035 which references miscellaneous hydraulic project permit requirements; subsections (18) and (19), language has been deleted and transferred to WAC 220-110-190 Water diversions; subsection (20), deleted language is found in other WACs; subsection (21), language referencing ford maintenance has been deleted and transferred to WAC 220-110-035. Language referencing maintenance of irrigation structures using hand held tools has been deleted and transferred to WAC 220-110-190 Water diversions; subsections (22), (23) and (24), language has been deleted and transferred to WAC 220-110-035 Miscellaneous hydraulic projects—Permit requirements; and

subsection (25), language has been deleted and transferred to WAC 220-110-224 Freshwater boat hoists, ramps, and launches.

New section WAC 220-110-035 Miscellaneous hydraulic projects—Permit requirements, the language contained in this section was previously included in subsections (17), (22), (23), (24), and a portion of (21) of WAC 220-110-030 have been transferred into this new section which more appropriately describes the intent, rather than in the previous "procedures" section.

WAC 220-110-050, new language informs that bioengineering is the preferred method of bank protection. Bioengineering is an effective means of bank protection which also retains habitat components necessary for protection of fish life; subsection (2), new language prohibits confinement of the watercourse except for installation of habitat mitigation features. Any area waterward of the existing bank is considered fish habitat and loss in this area results in a loss of fish production. In most cases, placement of material within the watercourse is not necessary for bank protection purposes; subsection (3), deleted language can be found in WAC 220-110-050(2); subsections (6), (7), and (8), the language found on previous subsections (6), (7), and (8) can be found in WAC 220-110-050 (8)(a), (b), and (c); subsection (5), new language clarifies amount of disturbance allowed to the banks and bank vegetation, and specifies the requirement for revegetation. A common practice associated with bank protection work is removal of all existing riparian vegetation. The protected banklines are often devoid of shade, cover, and food producing vegetation and the materials used to protect banks are often not conducive to growth of vegetation. The new language is necessary to ensure that vegetation is established and maintained; subsection (7), [(6)], new language informs applicants that fish habitat components may be required to mitigate for project impacts to fish life. Bank protection activities often harm existing or potential fish habitat. It is common for the departments to require various types of mitigation features to compensate for the impacts of bank protection activities. If the departments did not require this mitigation, there would be a loss of fish life associated with the projects; and subsection (8) [(7)], language in subdivisions (a), (b), and (c) was formerly WAC 220-110-050 (6), (7), and (8). New language in subdivision (d) requires vegetation to be established and maintained upon completion of the project. Vegetation is needed to compensate for habitat lost as a result of the bank protection. Natural revegetation often occurs very slowly if at all on hardened banks.

WAC 220-110-060, bridges have been removed from this section and grouped in WAC 220-110-070 Water crossing structures. Dock and float construction and the driving or removal of piling have been added to this section as related structures. There is significant reorganization of this section, much of which is for housekeeping, clarification, and consistency with other sections. Additions not in previous language include: Subsection (4), requires that materials treated with preservatives be cured to prevent leaching of materials, and potential toxic effects to fish life. The use of pentachorophenal [pentachlorophenal] and creosote are precluded in lakes due to high toxicity of these substances and low water exchanges; subsection (5), to prevent potential migration and shading impacts, addition of skirting or other features requires an HPA; subsection (6), the containment of flotation material is necessary to prevent breakup and potential adverse impacts to fish life; subsection (7), prevents the discharge of silt which can smother fish eggs and reduce the ability of fish to assimilate oxygen from the water; subsection (8), prevents unnecessary loss of aquatic vegetation which is critical in maintaining suitable fish habitat; and subsection (9), provides that projects do not result in an overall decrease in the quality of fish life.

WAC 220-110-070, this section has been modified to include all water crossing structures, including all bridges and culverts. The introductory paragraph indicates an order of descending preference based on protection of fish life afforded by each option. Applicable provisions of former WAC 220-110-060, 220-110-070, and 220-110-110 have been reorganized and clarified in this section. In addition to housekeeping, clarification, and consistency changes, additions to previous language include: Subsection (1)(e) and (3)(b), increases in design requirements to the 100-year flood level to reduce potential for failure and blockage by debris; subsection (1)(j), prohibits wastage of materials into state waters that are harmful to fish life. Subsection (2)(a)-(e), new, temporary culvert installation, modifications of the provisions in old WAC 220-110-110 Culvert installation, to provide for the unique circumstances of temporary culverts. The provisions provide for a minimum of disturbance and restoration of the site upon removal of the temporary culvert; subsection (3)(f), requires maintenance of culverts to ensure continued fish passage. Owner will be financially responsible for immediate repair if the structure becomes a hindrance to fish passage; subsection (3)(g), provides that culverts are installed in a manner to prevent sedimentation in streams to protect fish life; and subsection (3)(h), provides that sediment laden water is treated prior to discharging to fish bearing waters to prevent sedimentation in streams to protect fish life.

WAC 220-110-080, this section combines two old sections WAC 220-110-080 Channel change—Temporary and permanent and 220-110-090 Channel realignment, into one section. Channel change and channel realignment projects are sufficiently similar that they are now grouped into one category. The introduction to the section has been expanded to discourage channel change projects unless there is no adverse effect to fish life. In addition to housekeeping, clarification and consistency changes, additions to subsection (1)(a) combines old provisions of WAC 220-110-080 (1) and (2) and old WAC 220-110-090(1) and identifies the features formerly referred to as fish habitat; subsection (1)(b)-(d), old provisions of WAC 220-110-080 (3)-(5), with minor changes for clarity; subsection (1)(e), combines and expands old provisions of WAC 220-110-080 (6) and (8) to ensure that the new channel contains the necessary features to prevent erosion and to protect fish life in the stream prior to diverting water from the old channel to the new channel; subsection (1)(f), old provision of

WAC 220-110-080(7), unchanged; subsection (2)(a), old provision of WAC 220-110-090(1), unchanged; subsection (2)(b), rewording old provision of WAC 220-110-090(2) to clarify; subsection (2)(c), provision for simultaneous excavating of the new channel and filling of the old channel is deleted due to the changes in subsection (1)(b)-(d) above. Second sentence, new, provides that excess material excavated from the new channel is disposed in a manner to prevent erosion and protect fish life; subsection (2)(d), old provision of WAC 220-110-090(4), unchanged; subsection (2)(e), old provision of WAC 220-110-090(5), unchanged; subsection (3), old provision of WAC 220-110-090(6), minor change to clarify; and subsection (4), old provisions of WAC 220-110-080(9) and 220-110-090(7), with minor changes to clarify and to provide for protection of fish life other than food or game fish when the departments determine such protection is warranted.

WAC 220-110-100, subsection (3)(b), reworded to be consistent with WAC 220-110-070 (3)(h) to provide that sediment laden water is treated before being discharged to streams; subsection (3)(c), deleted, determined to be unnecessary; subsection (4)(c), reworded to limit the level of disturbance to that necessary to achieve the project purpose; subsection (4)(d), deleted, determined to be unnecessary; and subsection (8), clarifies language to limit the level of disturbance to that necessary to achieve the project purpose and to make the wording consistent with similar provisions elsewhere.

WAC 220-110-120, temporary bypass channels are moved from old WAC 220-110-080 and added to this section as structures with purposes and applications similar to temporary culverts and flumes; subsections (1)-(4), minor changes to these provisions to add channels; subsection (5), applicable provisions from WAC 220-110-080, regarding the construction of channels, are referenced for temporary bypass channels; subsections (6)-(7), renumbered, but otherwise unchanged; and subsection (8), minor rewording to be consistent with WAC 220-110-080(4).

WAC 220-110-130, subsection (5), reworded to clarify the intent of the old language and reduce the notification procedure from both departments to the department signing the HPA.

WAC 220-110-140, significant changes are made to this section to correlate the gravel removal rate to the rate that bedload materials are recruited to the river system from banks and upstream areas. The changes are designed to allow the removal of excess gravel while protecting the needs of fish life for reproduction and growth in the river system; subsection (1), new language limits the amount of gravel removed from a river system to the amount of gravel recruited from banks and upstream areas. Allows additional gravel removal above the annual recruitment rate in cases where excess gravel has accumulated, over time, reducing channel capacity; subsection (2), changes old subsection (1) and eliminates the mandatory 2-foot leave requirement and allows the excavation line to be established as low as the water's edge. Conditions establishing the excavation line would be site-specific depending on the needs of fish life in the vicinity of the project. Increases the area available for gravel removal while protecting fish life; subsection (3), combines old subsections (4) and (5) and clarifies the limits of the excavation zone; subsection (4), old subsection (3) unchanged; subsection (5), old subsection (2) unchanged; subsection (6), rewording of old subsection (9) to prevent equipment from operating within the water of any river or stream to prevent sedimentation and protect fish life; subsection (7)-(9), revision of old subsection (6)-(8) to clarify the procedures to be used in excavating and stockpiling material within the ordinary high water line. The procedures are designed to prevent adverse effects to fish life from the release of materials into the water and to prevent the creation of depressions in the watercourse that could trap and strand fish. Subsection (6) provides that a field survey of the site, performed with hand-held instruments such as clinometers or pea levels, may be required to ensure that the minimum 2 percent gradient toward the water is maintained and that no depressions remain in the excavation zone; subsection (10), new language provides that the upstream end of the gravel bar be left undisturbed by the gravel removal operation to maintain the existing location of the low flow channel of the stream; subsection (11), rewording of old subsection (10) to clarify that large woody debris, important to fish life, is to be retained within the watercourse and other debris, which may be harmful to fish life, is removed from the watercourse and disposed of in a manner that will prevent impacts to fish life; subsection (12), minor rewording of old subsection (11); subsections (13)-(14), new language provides that disturbances to the banks or streambank vegetation are rectified and returned to preproject conditions to maintain the integrity and stability of the channel; subsection (15), new language provides that all equipment operated within the ordinary high water line is properly maintained to prevent leaking or spillage of petroleum products harmful to fish life in areas where they may wash into waters of the state; and subsection (16), new language provides a notification procedure to the department so that a preproject and post-project inspection may be made to ensure compliance with the provisions of the HPA.

WAC 220-110-150, this section was formerly titled Log and log jam removal. The section has been renamed to more accurately reflect the type of projects and activities allowed when large woody debris accumulations become problems in rivers and streams; subsection (1), new language provides for retaining or repositioning large woody debris within the ordinary high water line for its benefits to fish life. Large woody debris is extremely important for its role in providing habitat and food chain support for fish life. Where possible, large woody debris is to be retained within the watercourse; subsection (2), minor modification of old subsection (1); subsection (3), expansion of old subsection (2) to specify precautionary measures necessary to prevent damage to streamside vegetation; subsection (4), rewording and clarification of old subsection (3); subsection (5), clarification of old subsection (4) to distinguish between large woody debris that is to be repositioned within the ordinary high water line and smaller debris that is to be removed and placed so it will not become a hazard to fish life; subsection (6),

rewording of old provisions (5) to substitute "large woody debris" for "logs" and to prevent disturbing embedded material that is important for fish habitat; subsection (7), rewording of old subsection (6) to substitute "large woody debris" for "logs"; and subsection (8), minor rewording of old subsection (7) to be consistent [with] other provisions.

WAC 220-110-160, subsection (1), provision revised to allow felling of trees into or across a watercourse when specifically authorized; subsection (2), new language provides that specific authorization must be obtained to remove trees from watercourses; subsection (3), addition to old subsection (2) to prevent damage to streamside vegetation as well as to the bed or banks; subsection (4), new language provides for anchoring cable ends across watercourses as long as damage to streamside vegetation is minimized during placing or operating the cable; and subsection (5), rewording of old subsection (3) to clarify the timing of debris removal and distinguishing between large woody debris in place prior to the project and debris entering the watercourse as a result of the project.

WAC 220-110-170, subsection (4), minor rewording to make the language consistent with other sections; and subsections (5)-(6), separates old subsection (5) into two provisions and makes the language consistent with other sections.

WAC 220-110-180, subsection (2), adds considerations for controlling fish access to constructed ponds and requires screening or free access to the ponds when appropriate; subsection (3), simplified to require that the inlet and outlets of constructed ponds be as close together as practical; and subsection (4), changes this provision to reflect that administering water rights and recognized claims is the responsibility of the Department of Ecology and not of the Departments of Fisheries or Wildlife. Also requires that a water right be obtained before exercising the authorization of the HPA, to ensure that fish life is not unnecessarily impacted.

WAC 220-110-190, language additions reflect language that has been transferred from WAC 220-110-030 (18), (19), and (21). New language has been added to require that water diversions be equipped with a fish guard or screen as provided for in statute. Other modifications are necessary to clarify what materials are acceptable for construction of gravel berm dams, minimizing the potential of siltation to downstream areas and addressing the need to maintain large woody debris within the ordinary high water mark to maintain important fish habitat. Modifications also provide opportunity for additional flexibility to remove accumulated sediments at pump stations, screens and headgates. An approval to divert water will be required from the Department of Ecology prior to exercise of project activity as approved under the HPA, because the impacts to fish life associated with the project are unnecessary unless the hydraulic project activity is required to provide access for approved water diversion.

WAC 220-110-200, 220-110-210 and 220-110-220, clarification only, no substantive changes.

New section WAC 220-110-223 Freshwater lake bulkheads, new section necessary to establish provisions specific to construction of freshwater lake bulkheads. The use of creosote and pentachlorophenol is precluded in fresh water lakes due to the high toxicity and low water exchange.

New section WAC 220-110-224 Freshwater boat hoists, ramps, and launches, new section necessary to establish provisions specific to construction of freshwater boat ramps and launches. The language referencing boat hoists has been transferred in from WAC 220-110-030(25). The use of creosote and pentachlorophenol is precluded in fresh water lakes due to the high toxicity and low water exchange.

New section WAC 220-110-225 Stormwater management, adequate management of stormwater is necessary to maintain fish life and habitat in areas sustaining growth and development. Provisions in this section represent best management practices (BMP) that have been implemented as stormwater guidelines since November 1990, updated to reflect new information and to maintain consistency with the Puget Sound stormwater manual. The manual incorporates the best information available relative to stormwater management and is intended as a guidance document for adoption by local government, and consistency with this section will ease the permit preparation burden by applicants.

WAC 220-110-250, this replaces both WAC 220-110-250 and WAC 220-110-260 and adds additional saltwater habitats of special concern. Previously, legal descriptions were provided for documented surf smelt and herring spawning beds. Significant additions of species and areas make individual legal descriptions impractical. Since this information is frequently updated, it is not feasible to describe all locations in the WAC. WDF will maintain a central database of these areas. Applicants are advised to contact the WDF for information relative to specific project sites.

WAC 220-110-270, these provisions are more specific and clarify the common technical provisions for the permittee. These provisions are now used in most marine HPAs.

WAC 220-110-280, these provisions are more specific and clarify the requirements of the permittee. The reference to "sloping and vertical" bulkheads was eliminated. The use of tidal elevations did not allow for sufficient protection of the nearshore, intertidal habitats, and the fish life dependent on them. This language will allow for only as much encroachment on the beach as is necessary to construct the bulkhead. Reference to project timing has been changed to prohibited rather than permitted times, which is consistent with wording in HPAs and is more understandable. Additional timing restrictions have been added for other habitats of special concern. Other standard provisions reflect those currently used for bulkhead construction.

New section WAC 220-110-285 Single family residence bulkhead in saltwater areas, new language applicable to implementation of a new statute, RCW 75.20.160, enacted in 1991, governing construction of bulkheads on single family residence type property.

WAC 220-110-290, other habitats of special concern have been added to allow protection. Clarification is

added to require adequate mitigation for construction of saltwater boat ramps.

WAC 220-110-300, timing restrictions for herring spawning were changed and reference to timing for other species was added. In addition to pile driving, other construction associated with piers, docks and floats are included in timing restrictions to avoid their impacts on fish life. Piers, ramps, docks, floats and other over water structures have been found to eliminate or significantly reduce, due to shading, marine vegetation important to many species of fish and shellfish. Impacts to saltwater habitats of special concern are to be avoided and adequate mitigation measures employed in other areas.

WAC 220-110-320, minor changes have been made for clarification. Reference to other habitats of special concern and the provision that dredging will require adequate measures to avoid loss of habitat.

WAC 220-110-330, minor changes have been made for clarification. Construction of marinas in saltwater habitats of special concern are to be avoided because proven mitigation measures are not available for loss of these habitats.

WAC 220-110-340, modifications are necessary to incorporate informal appeal opportunities provided in RCW 75.20.160, enacted in 1991, and to provide the appropriate reference to the Administrative Procedure Act. The filing deadline was incorporated to provide for timely review of concerns. The responsible official who will conduct the informal appeal has been clarified.

WAC 220-110-350, this section has been modified to reflect more appropriate legal terminology, correct references to the Administrative Procedure Act, correct notification addresses, and clarify the formal appeal process. A request deadline of 30 days has been established from the date of service of the notice to allow for timely review. Reference of formal appeals pursuant to RCW 75.20.160 to the Hydraulic Appeals Board has also been incorporated.

New section WAC 220-110-360 Penalties, the language in this section was previously included in subsection (16) of WAC 220-110-030 and has been transferred to this new section and modified to clarify penalties associated with violation of the hydraulic code. Language has been modified on implementation of the civil penalty, to explain how the departments may apply the civil penalty, how and when the civil penalty accumulates, and when it becomes payable. The change reflects the manner in which criminal and civil penalties are levied. Civil penalties are allowed to accrue during the appeal process to avoid/compensate for losses of habitat which occur while the appeal is ongoing.

Repealing WAC 220-110-110 Culvert installation and 220-110-260 Pacific hearing spawning beds.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, P.O. Box 43147, Olympia, WA, 586-2429; Implementation: Duane Phinney, P.O. Box 43155, Olympia, WA, 753-3621; and Enforcement: Dayna Matthews, P.O. Box 43147, Olympia, WA 753-6585.

Name of Proponent: These rules are jointly proposed by the Washington Department of Fisheries and the Washington Department of Wildlife, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

Small Business Economic Impact Statement: The following regulations will not have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry. Therefore, there is no need for review or alterations to minimize impact upon small business, WAC 220-110-010, 220-110-020, 220-110-030, 220-110-035, 220-110-050, 220-110-060, 220-110-070, 220-110-080, 220-110-100, 220-110-120, 220-110-130, 220-110-140, 220-110-150, 220-110-160, 220-110-180, 220-110-190, 220-110-200, 220-110-210, 220-110-220, 220-110-223, 220-110-224, 220-110-250, 220-110-270, 220-110-280, 220-110-285, 220-110-290, 220-110-300, 220-110-320, 220-110-330, 220-110-340, 220-110-350, and 220-110-360.

Many of these proposed WAC revisions are needed because of statutory revisions to chapter 75.20 RCW, changes in agency policy and procedure based on updated resource information, and a desire to clarify the intent of certain rules. Many of the proposed changes have minor or negligible impact, and in many cases represent no substantive change to existing regulations. Proposed changes to WAC 220-110-140 will likely reduce the costs to small businesses participating in gravel extraction. The proposed change provides opportunity to remove greater quantities from individual locations, potentially reducing relocation costs.

The proposed addition of WAC 220-110-225 will apply primarily to new construction, and is, therefore, not likely to affect more than 20% of all small businesses. There is the potential, however, to affect greater than 10% of "Subdividers and Developers" (SIC 655), by requiring incorporation of stormwater management facilities into initial construction of development that will result in impervious surface equal to or greater than 5,000 square feet.

Economic Impact of Stormwater Management: There is no regular reporting or record-keeping requirement associated with the provisions of WAC 220-110-225. Preparation and submission of a hydraulic project application to the Department of Fisheries or the Department of Wildlife is required, including general plans for the overall project and complete plans and specifications for the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the protection of fish life. This application would be reviewed and either approved, with or without conditions for the protection of fish life, or denied. There is currently no cost associated with the review of a hydraulic project application.

It is possible that an applicant would have to retain the assistance of a professional engineer to determine the stormwater runoff under preproject and post-project conditions, and to determine necessary stormwater detention/retention volumes and release rates. Engineering

services may be required for other aspects of the development project, potentially reducing the additional costs and effort of retaining these services. Some assistance may also be required in the design of treatment facilities for water quality prior to release from the site. Many of these design services may also be required by local jurisdictions to address stormwater design requirements, so the additional cost to small businesses resulting from this regulation is dependent, in part, on the level of design detail required by the local jurisdiction.

We are not aware of existing summary data on which the cost of compliance can be estimated. As indicated above, stormwater management requirements and associated costs imposed by local jurisdictions may directly overlap, in whole or in part. In addition, there is significant variability in potential cost of stormwater management between sites, depending on available space, runoff potential, topography, soil permeability, existing infrastructure, proximity to surface water release, etc. A rough estimate is that compliance with the retention criteria could require five percent of the land base associated with single family residential development, and 15 percent of the land base associated with commercial development. These costs would likely be passed on to individuals purchasing lots for residential development or through increased rent and purchase costs of offered goods in small commercial businesses.

The sizing of stormwater management facilities, dependent on the factors mentioned above, is likely to vary more on site characteristics than on the size of the project. Overall, it is possible that smaller developments, with which small businesses are likely to be involved, may sustain a slightly higher economic impact.

Stormwater Management Economic Impact Mitigation: Several mitigation components have been incorporated into the proposed stormwater management rule, which should reduce impacts to small business. Any development resulting in less than 5,000 square feet of impervious surface is not required to obtain a hydraulic project approval. Developments of this size are most likely conducted by small business. Although specific modeling methods are prescribed to estimate runoff volumes, the release rate criteria are performance based, offering some flexibility in retention pond design. Various water quality treatment methods are also offered that allow flexibility to meet site specific needs.

Summary: Increased stormwater runoff, from artificially created impervious surfaces, alters the bed or flow of waters of the state, adversely impacting fish life. Runoff from impervious surfaces increases peak flow magnitude of storm runoff events. Rainfall infiltration is reduced or eliminated by impervious surfaces, causing surface flows to be decreased or eliminated during critical low flow periods. While there are increased costs associated with new construction as a result of compliance with this proposed rule, we do not believe that any additional mitigation alternatives are feasible to reduce impacts to small business while still meeting the objective of the statutes which are the basis for the proposed rule.

Hearing Location: On June 23, at 7:00 p.m., Spokane Community College, North 1810 Greene Street, Spokane, WA 99207; on June 24, at 7:00 p.m., Central Washington University, Room 208 SUB Building, Ellensburg, WA 98926; on June 25, at 7:00 p.m., Everett Community College, 801 Wetmore Avenue, Baker 120, Everett, WA 98201; on June 26, at 10:00 a.m., Office Building 2, 14th and Jefferson, Lower Level Auditorium, Olympia, WA 98504; and on June 29, at 7:00 p.m., Lower Columbia College, 1600 Maple, Founders Room, Main 119, Longview, WA 98632-0310.

Submit Written Comments to: Fisheries Hearings Officer, P.O. Box 43147, Olympia, WA 98504-3147, by June 22, 1992.

Date of Intended Adoption: July 31, 1992.

May 20, 1992
Nancy L. Nelson
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-010 PURPOSE. Pursuant to ((~~RCW 75.20.100, 75.20.103, 75.20.106, 75.20.130, and 75.20.140~~)) chapter 75.20 RCW, this chapter establishes regulations commonly used for the construction of ((~~any form of~~)) hydraulic project(s) or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, and sets forth procedures for obtaining a hydraulic project approval (HPA). In addition, this chapter incorporates criteria ((~~and guidelines~~)) generally used by the department of fisheries and the department of ((~~game~~)) wildlife for project review and conditioning ((~~hydraulic project approvals~~)) HPAs. It is not intended that the technical provisions ((~~will~~)) shall automatically apply to each ((~~hydraulic project approval~~)) HPA. Rather, each application ((~~will~~)) shall be reviewed on an individual basis. Additional provisions may be required on a project or site-specific basis.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-020 DEFINITIONS. As used in this chapter, unless the context clearly requires otherwise:

(1) "Beach area" means the beds between the ordinary high water line and extreme low tide.

(2) "Bed" means the land below the ordinary high water lines of ((~~state~~)) waters of the state. This definition shall not include irrigation ditches, canals, ((~~storm water~~)) storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

(3) "Bed materials" means natural-occurring material found in the beds of waters of the state.

(4) "Bio-engineering" means project designs or construction methods which use a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

(5) "Change the natural flow" means to cause any significant variation in the quality or quantity of waters of the state, including but not limited to increases or decreases in storm water runoff.

(6) "Cofferdam" means a temporary enclosure used to keep water from a work area.

(((~~5~~))) (7) "Department((~~s~~))" means the department of fisheries ((~~and~~)) or the department of ((~~game~~)) wildlife.

(((~~6~~))) (8) "Direct harm" means actual physical trauma to fish life as well as mortalities, injuries, or stress induced by deleterious effects on habitat and water quality or quantity.

(9) "Dredging" means removal of bed material.

(((~~7~~))) (10) "Emergency" means an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation, arising from weather or stream flow conditions or other natural conditions.

(((~~8~~))) (11) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

((~~(9)~~)) (12) "Established ford" means a crossing place in a river or stream ((~~which has existed for at least three years~~)) that was in existence and annually used prior to 1986 or subsequently permitted by the department, and, has ((~~an~~)) identifiable ((~~approach on the stream bank~~)) approaches on the streambanks, where the entry point and exit point are within one hundred feet upstream or downstream of each other.

((~~(10)~~)) (13) "Extreme low tide" means the lowest level reached by a receding tide.

((~~(11)~~)) (14) "Farm and agricultural land" means those lands identified as such in RCW 84.34.020(2).

(15) "Filter blanket" means a layer or combination of layers of pervious materials (organic, mineral, or ((~~man-made~~)) synthetic) designed and installed in such a manner as to provide drainage, yet prevent the movement of soil particles due to flowing water.

((~~(12)~~)) (16) "Fish life" means all fish species, including but not limited to food fish, shellfish, and game fish, and all stages of development of those species.

((~~(13)~~)) (17) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for except as authorized by rule of the director of the department of fisheries.

((~~(14)~~)) (18) "Freshwater area" means those ((~~state~~)) waters of the state and associated beds below the ordinary high water line that are upstream of river mouths including all lakes, ponds, and streams.

((~~(15)~~)) (19) "Game fish" means those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the state ((~~game~~)) wildlife commission.

((~~(16)~~)) (20) "General provisions" means those provisions that are contained in every hydraulic project approval.

((~~(17)~~)) (21) "Hand-held tools" means tools that are held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, ((~~and~~)) hammers, etc.

((~~(18)~~)) (22) "Hydraulic project" means construction or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.

((~~(19)~~)) (23) "Hydraulic project application" means a form provided by and submitted to the department of fisheries or the department of ((~~game~~)) wildlife accompanied by plans and specifications of the proposed hydraulic project.

((~~(20)~~)) (24) "Hydraulic project approval" (HPA) means:

(a) A written approval for a hydraulic project signed by the director of the department of fisheries or the director of the department of ((~~game~~)) wildlife, or by employees designated and authorized to do so; or

(b) A verbal approval for an emergency hydraulic project from the director of the department of fisheries or the director of the department of ((~~game~~)) wildlife, or by employees designated and authorized to do so; or

(c) A "Gold and Fish" pamphlet issued by the departments which identifies and authorizes specific minor hydraulic project activities for mineral prospecting (panning); or

(d) A "Irrigation and Fish" pamphlet issued by the departments which identifies and authorizes specific minor hydraulic project activities.

((~~(21)~~)) (25) "Impervious surface" means an artificially hardened surface which either prevents or retards the natural entry of water into the soil mantle, or an artificially hardened surface which causes water to run off the surface in greater quantities or at a greater rate of flow than compared to the preproject conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which impede the natural infiltration of storm water. Open, uncovered retention and detention facilities shall not be considered as impervious surfaces.

(26) "Indirect harm" means any deleterious effect on the quality or quantity of fish habitat.

(27) "Large woody debris" means trees or tree parts wholly or partially within the ordinary high water line, rootwads, and trees or tree parts larger than four inches in diameter and longer than six feet.

(28) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years. It is measured from the MLLW = 0.0 tidal elevation.

(29) "Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each days' lowest tide at a particular location over a period of 18.6 years. It is the datum base for tide levels and vertical references in the saltwater area.

((~~(22)~~)) (30) "Mitigation" means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action; ((~~and/or~~))

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation; ((~~and/or~~))

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; ((~~and/or~~))

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; ((~~and/or~~))

(e) Compensating for the impact by replacing or providing substitute resources or environments; ((~~and/or~~))

(f) Monitoring the impact and taking appropriate corrective measures.

((~~(23)~~)) (31) "Natural conditions" means those conditions which arise in or are found in nature. This is not meant to include artificial or manufactured conditions.

((~~(24)~~)) (32) "Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: PROVIDED, That in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the line of mean high water.

((~~(25)~~)) (33) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations.

(34) "Protection of fish life" means prevention of direct or indirect harm to fish life.

((~~(26)~~)) (35) "River or stream" means waters in which fish may spawn, reside, or through which they may pass, and tributary waters which influence the quality of fish habitat downstream. This includes watercourses which exist on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This also includes any natural watercourses which have been altered by man. This definition is not meant to include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses except where they exist in a natural watercourse which has been altered by man.

((~~(27)~~)) (36) "Saltwater area" means those ((~~state~~)) waters of the state and associated beds below the ordinary high water line and downstream of river mouths.

((~~(28)~~)) (37) "Shellfish" means those species of ((~~marine~~)) saltwater and freshwater invertebrates that shall not be taken except as authorized by rule of the director of the department of fisheries. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

((~~(29)~~)) (38) "Special provisions" means those conditions that are a part of the hydraulic project approval, but are site or project specific, and are used to supplement or amend the technical provisions.

((~~(30)~~)) (39) "Streambank stabilization" means those projects which prevent or limit erosion, slippage, and mass wasting; including, but not limited to bank resloping, log and debris removal/relocation, planting of woody vegetation, physical armoring of streambanks using rock or woody debris, placement of jetties or groins, or gravel removal.

(40) "Technical provisions" means those conditions that are a part of the hydraulic project approval and apply to most projects of that nature.

((~~(31)~~)) (41) "Watercourse" means any portion of a channel, bed, bank, or bottom within the ordinary high water line of waters of the state. This definition is not meant to include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by man.

((~~(32)~~)) (42) "Waters of the state" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

((~~(33)~~)) (43) "Wetted perimeter" means the areas of a watercourse covered with water, flowing or nonflowing.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-030 HYDRAULIC PROJECT APPROVALS—PROCEDURES. (1) A person shall ((~~secure a hydraulic project approval~~)) obtain a HPA before conducting a hydraulic project.

(2) A person seeking ((~~hydraulic project approval~~)) a HPA shall submit a complete application to the department ((~~of fisheries or the department of game~~)). The application shall contain general plans for the overall project, complete plans and specifications for the proposed construction or work ((~~below~~)) within the mean higher high water line in salt water or within the ordinary high water line ((~~of state waters~~)) in fresh water, and complete plans and specifications for the proper protection of fish life. The application must be signed and dated by the applicant or his agent.

(3) ((~~Application for hydraulic project approval shall be submitted to the department of fisheries or department of game.~~)) The department having jurisdiction of a particular site ((~~will~~)) shall cooperate with the other department to protect all species of fish. If either department receives an application concerning a site not in its jurisdiction, it ((~~will~~)) shall transmit the application to the other department within three days, and the applicant ((~~will~~)) shall be notified.

(a) For projects located in the following areas, an application shall be submitted to the Department of Fisheries, Habitat Management Division, ((~~115 General Administration Building~~)) PO Box 43155, Olympia, WA 98504-3155, (206) 753-6650:

(i) Western Washington, which includes all lands lying west of the summit of the Cascade Mountains;

(ii) The mainstem Snake River and the mainstem Columbia River downstream from Chief Joseph Dam.

(b) For projects located in the following areas, an application shall be submitted to the Department of ((~~Game~~)) Wildlife, Habitat ((~~Management~~)) Division, 600 ((~~North~~)) Capitol Way North, Olympia, WA ((~~98504~~)) 98501-1091, (206) 753-5897:

Eastern Washington, which includes all lands lying east of the summit of the Cascade Mountains, including Klickitat County except those areas in (a)(ii) of this subsection.

(c) The departments reserve the right to exchange jurisdiction on individual projects.

(d) Receipt of any one of the following documents at the addresses listed in (a) and (b) of this subsection constitutes application for a ((~~hydraulic project approval~~)) HPA:

(i) A completed hydraulic project application submitted to the department ((~~of fisheries or department of game~~));

(ii) A completed forest practice application submitted to the department of natural resources, if the hydraulic project is part of a forest practice as defined in WAC 222-16-010(19); or

(iii) A section 10 or 404 public notice circulated by the United States Army Corps of Engineers or United States Coast Guard.

(4) The appropriate department shall grant or deny approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the State Environmental Policy Act (chapter 43.21C RCW). The departments shall strive to ((~~process hydraulic project applications~~)) issue HPAs in less than thirty days. The forty-five day requirement shall be suspended if:

(a) An incomplete application is received;

(b) The site is physically inaccessible for inspection;

(c) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(d) The applicant requests delay.

(5) Immediately upon determination that the forty-five day period is suspended, the appropriate department shall notify the applicant in writing of the reasons for the delay.

(6) The department granting approval may issue an expedited written HPA in those instances where normal processing would result in unanticipated extreme hardship, or unacceptable environmental damage would occur. An expedited HPA may be granted upon request for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources that are subject to imminent danger by weather, flow, or other natural conditions. Expedited HPA requests require complete written application and shall take precedence over other nonemergency applications and will normally be issued within ten calendar days of request. All SEPA requirements shall be met prior to issuance of an expedited HPA.

(7) Verbal approval shall be granted immediately upon request for emergency work to repair existing structures, move obstructions, restore banks, or protect property that is subject to immediate danger by weather, flow, or other natural conditions. Verbal approval shall be granted immediately upon request for driving across a stream during an emergency, as defined in WAC 220-110-020((~~(7)~~)) (10).

((~~(7)~~)) (8) The department((~~s~~)) granting an HPA may accept written or verbal requests for time extensions, renewals, or alterations of an existing ((~~approval~~)) HPA. Transfer of an HPA to a new permittee requires written request by the original permittee or their agent and such request shall include the HPA number. This written request shall be in a form acceptable to the department granting approval and shall contain an affirmation by the new permittee that he/she agrees to be bound by the conditions on the HPA. Project activity shall not be conducted by the new permittee until approval has been issued by the department.

((~~(8)~~)) (9) Each ((~~approval~~)) HPA is usually specific to a watercourse, stating the exact location of the project site, and usually consists of general, technical, and special provisions.

((~~(9)~~)) (10) The written ((~~hydraulic project approval~~)) HPA, or ((~~an exact copy~~)) clear reproduction, shall be on the project site when work is being conducted and shall be immediately available for inspection.

((~~(10)~~)) (11) All ((~~hydraulic project approvals~~)) HPAs may be granted for a period of up to five years. ((~~However, approvals issued under RCW 75.20.103 for work of a seasonal nature that diverts water for irrigation or stock watering purposes shall remain in effect without need for periodic renewal, provided the permittee notifies the agency that issued the approval before commencing the work each year. All~~)) Permittees ((~~must~~)) shall demonstrate substantial progress on construction of that portion of the project relating to the hydraulic approval within two years of the date of issuance. The following types of HPAs issued under RCW 75.20.103 shall remain in effect without the need for periodic renewal provided the permittee notifies the department that issued the HPA before commencing the work each year.

(a) Work of a seasonal nature that diverts water for irrigation or stock watering purposes.

(b) Streambank stabilization projects if the problem causing the erosion occurs on an annual or more frequent basis as demonstrated by the applicant. Evidence of erosion may include, but is not limited to history of permit application, approval, or photographs. Periodic flood waters by themselves do not constitute the problem that requires a HPA.

((~~(11)~~)) (12) A hydraulic project application ((~~will~~)) shall be denied when, in the judgment of the department ((~~of fisheries or department of game~~)), the project ((~~is directly or indirectly harmful~~)) will result in direct or indirect harm to fish life unless adequate mitigation can be assured by conditioning the ((~~approval~~)) HPA or modifying the proposal. If approval is denied, the department ((~~of fisheries or department of game~~)) will provide the applicant, in writing, a statement of the specific reason(s) why and how the proposed project would adversely affect fish life.

((~~(12)~~)) (13) Protection of fish life shall be the only ground upon which an ((~~approval~~)) HPA may be denied or conditioned.

((~~(13) Hydraulic project approvals~~)) (14) HPAs may have specific time limitations on project activities to protect fish life.

((~~(14) Hydraulic project approvals~~)) (15) HPAs do not exempt the applicant from obtaining other appropriate permits and following the rules or regulations of local, other state, and federal agencies.

((~~(15)~~)) (16) Administration of this chapter shall be conducted in compliance with ((~~the State Environmental Policy Act~~)) SEPA, chapter 43.21C RCW, and chapters 197-11, 220-100 ((~~or~~)), and 232-19 WAC.

((~~(16) If a person commences any activity subject to RCW 75.20.100 or 75.20.103 without having first obtained approval of the department of fisheries or department of game or if any person fails to follow or carry out any of the requirements or provisions as are made a part of such approval, that person is guilty of a gross misdemeanor. In lieu of gross misdemeanor charges, at the discretion of the department of fisheries or the department of game, the person who violates RCW 75.20.100, 75.20.103, or chapter 220-110 WAC may be subject to a civil penalty of up to one hundred dollars per day. The amount of the civil penalty will be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty. The notice will describe the violation, the amount of the penalty, how to pay the penalty, and the appeal rights of the person incurring the penalty.~~

~~(17) In addition to hydraulic project approval, mechanical or hydraulic clam harvesters shall be governed by the provisions of WAC 220-52-018 and shall obtain and comply with the provisions of the department of fisheries' permit to operate a clam harvesting machine.~~

~~(18) The hydraulic code cannot be used to limit the amount or timing of water diverted under a water right. However, construction of structures or placement of devices or other work within waters of the state which will use, divert, obstruct or change the natural flow or bed of any river or stream, or that will utilize any of the waters of the state in order to take water allowed by a water right requires a hydraulic project approval. Regulation of water flow from a permanent irrigation structure by operating valves, or manipulating stop logs, check boards or head boards, does not require hydraulic project approval.~~

~~(19) Persons who have historically used and are currently using a gravel berm dam as the method of diversion shall be permitted to continue to do so. The departments can, however, condition the approval of gravel berms.~~

~~(20) The following general provisions apply to and are found on each hydraulic project approval:~~

~~(a) This approval is to be available on the job site at all times and its provisions followed by the permittee and operator performing the work.~~

~~(b) The person(s) to whom this approval is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this approval.~~

~~(c) Failure to comply with the provisions of this approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.~~

~~(d) All hydraulic project approvals~~)) (17) All HPAs issued pursuant to RCW 75.20.100 are subject to additional restrictions, conditions, or revocation if the department ((~~of fisheries or department of game~~)) determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to chapter ((~~34.04~~)) 34.05 RCW, to appeal such decisions. All ((~~hydraulic project approvals~~)) HPAs issued pursuant to RCW 75.20.103 may be modified by the departments ((~~of fisheries or department of game~~)) due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, That such modifications shall be subject to appeal to the hydraulic appeals board established in RCW 75.20.130.

~~(((c) This approval pertains only to the provisions of the fisheries and game codes. Additional authorization from other public agencies may be necessary for this project.~~

~~(21) Cleaning, adjusting, operating, and maintaining existing irrigation diversion structures or maintaining established fords, by use of hand-held tools, may be accomplished without first securing a written hydraulic project approval. For these purposes, this subsection, or the latest edition of the Irrigation and Fish pamphlet issued by the departments of fisheries and game, shall serve as the hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020(8). If adverse impacts to fish life occur, the project shall immediately cease, and an application for approval shall be made in accordance with WAC 220-110-030 (1), (2), and (3).~~

~~(22) Aquatic weed control by hand pulling or hand tools does not require hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020(8).~~

~~(23) Driving a vehicle, or operating equipment, on or across an established ford does not require a hydraulic project approval. However, ford repair with equipment or construction work within the ordinary high water lines requires a hydraulic project approval. Driving a vehicle or operating equipment on or across wetted stream beds at areas other than established fords requires a hydraulic project approval.~~

~~(24) The installation, by hand or hand tools, of small scientific markers, oyster stakes, boundary markers, or property line markers does not require a hydraulic project approval.~~

~~(25) The installation and operation of portable boat hoists in lakes does not require a hydraulic project approval, provided:~~

~~(a) Equipment is not operated below the ordinary high water line during installation;~~

~~(b) The hoist is not installed at the mouth of any river or stream; and~~

~~(c) Dredging, filling, or pile driving is not conducted as part of the project:~~))

NEW SECTION

WAC 220-110-035 MISCELLANEOUS HYDRAULIC PROJECTS—PERMIT REQUIREMENTS. (1) Operation of mechanical or hydraulic clam harvesters shall require an HPA in addition to compliance with provisions of WAC 220-52-018 and shall obtain and comply with the provisions of the department of fisheries' permit to operate a clam harvesting machine.

(2) Aquatic weed control by hand pulling or hand-held tools does not require hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020(11).

(3) The installation, by hand or hand-held tools, of small scientific markers, oyster stakes, boundary markers, or property line markers does not require a HPA.

(4) Construction or maintenance of fish screens or guards requiring use of equipment requires a written HPA.

(5) Driving a vehicle or operating equipment, on or across an established ford does not require a HPA. However, ford repair with equipment or construction work within the ordinary high water lines requires a HPA. Driving a vehicle or operating equipment on or across wetted stream beds at areas other than established fords requires a HPA.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-050 BANK PROTECTION. On rivers and streams, bio-engineering is the preferred method of bank protection work. The following technical provisions may apply to bank protection projects:

(1) Bank protection work shall be confined to damaged banks.

(2) ((~~Watercourse encroachment shall be held to a minimum.~~

~~(3) Bank protection material shall not appreciably reduce normal watercourse capacity or configuration.~~

~~(4)~~)) Bank protection material shall not constrict or extend into the ordinary high water line except for installation of mitigation features approved by the department. The toe shall be designed to protect the integrity of bank protection material.

(((~~5~~))) (3) Bank sloping shall be accomplished in a manner that will prevent the release of overburden material into the water.

(((~~6) Bank protection material shall be clean, angular rock or other material of a sufficient size to prevent its being washed away by water action. River gravels shall not be used as exterior armor.~~

~~(7) Bank protection and filter blanket material shall be placed from the bank or a barge. Dumping onto the bank face shall be permitted only if the toe is established and the material can be confined to the bank face.~~

~~(8) Filter blanket material shall be placed prior to placement of bank protection material.~~

~~(9)~~))) (4) Alteration or disturbance of the bank and bank vegetation shall be ((~~held to a minimum~~)) limited to that necessary to construct the project. All disturbed areas shall be protected from erosion and revegetated with native woody species, and maintained to ensure survival.

(((~~10~~))) (5) Overburden material resulting from this project shall be deposited so as not to reenter the water.

(6) Fish habitat components such as logs, stumps, and/or large boulders may be required as part of the bank protection project to mitigate project impacts. These fish habitat components shall be anchored into the bank in a manner that will ensure they remain in place at all stream flows.

(7) When rock or other hard materials are approved for bank protection, the following provisions may apply:

(a) Bank protection material shall be angular rock of a sufficient size to prevent its being washed away by water action. River gravels shall not be used as exterior armor.

(b) Bank protection and filter blanket material shall be placed from the bank or a barge. Dumping onto the bank face shall be permitted only if the toe is established and the material can be confined to the bank face.

(c) Filter blanket material shall be placed prior to placement of bank protection material.

(d) Upon completion of the bank protection portions of this project, steps shall be taken to vegetate the armored section with native woody species. The vegetation shall be maintained to ensure survival.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-060 ((~~BRIDGE, PIER, AND PILING CONSTRUCTION~~)) CONSTRUCTION OF FRESHWATER DOCKS, PIERS, AND FLOATS AND THE DRIVING OR REMOVAL OF PILING. The following technical provisions may apply to ((~~bridge, pier, and piling~~)) freshwater dock, pier, and float construction projects and the driving or removal of piling:

(1) ((~~Excavation for the footings, piers, or abutments shall be isolated from the wetted perimeter by a dike, cofferdam, or similar mechanism.~~

~~(2) Wastewater discharged to receiving waters shall not adversely impact fish life.~~

~~(3) Structures containing concrete or wood preservatives shall be cured or dried prior to water encroachment.~~

~~(4) Abutments, piers, piling, sills, etc., shall not restrict the flow so as to cause any appreciable increase in backwater elevation or scour and shall be aligned to cause the least effect on the hydraulics of the body of water.~~

~~(5) Riprap materials used for structure protection shall be clean and of sufficient size to prevent their being washed away.~~

~~(6) Backfilling and armoring around each structure shall take place prior to removal of cofferdams.~~

~~(7) The bridge shall be constructed high enough to pass the fifty-year flood level. Exception shall be granted if applicant provides design criteria to support a more appropriate level.~~

~~(8) Alteration or disturbance of bank or bank vegetation shall be held to a minimum, and all disturbed areas shall be protected from erosion and revegetated.~~)) Excavation for and placement of the foundation and superstructure shall be outside the ordinary high water line unless the construction site is separated from waters of the state by use of an approved dike, cofferdam, or similar structure.

(2) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to construct the project. All disturbed areas shall be protected from erosion and revegetated with native woody species, and maintained to ensure survival.

(3) Removal of existing or temporary structures shall be accomplished so that the structure and associated material does not reenter the watercourse.

(4) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to prevent leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

(5) Skirting or other structures shall not be constructed around the piers, docks, or floats unless specifically approved in the HPA.

(6) Floatation for the structure shall be enclosed and contained to permanently prevent the breakup or loss of the floatation material into the water.

(7) All work operations shall be conducted in such a manner as to cause little or no siltation to adjacent areas. If at any time, fish are observed in distress, a fish kill occurs, or water quality problems develop as a result of a pier, dock, float, or piling project, construction operations shall cease immediately and the department granting HPA shall be immediately contacted.

(8) Removal of aquatic vegetation shall be limited to that necessary to gain access to construct the project.

(9) All pier, dock, float, and piling construction projects shall include measures to mitigate adverse impacts to fish life.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-070 ((~~BRIDGE CONSTRUCTION—STRINGER TYPE~~)) WATER CROSSING STRUCTURES. ((~~The following technical provisions may apply to bridge construction—Stringer type projects:~~)) Bridges are preferred as water crossing structures by the departments in order to ensure free and unimpeded fish passage for adult and juvenile fishes. Other structures which may be approved, in descending order of preference, include: Temporary culverts, bottomless arch culverts, elliptical culverts, and round culverts. Corrugated metal culverts are preferred over smooth surfaced culverts. Culvert baffles and downstream control weirs are discouraged except to correct fish passage problems at existing structures. The following technical provisions may apply to water crossing structures:

(1) ((~~Unless construction is separated from state waters by use of a cofferdam or similar mechanism,~~)) Bridge construction.

(a) Excavation for and placement of the foundation and superstructure shall be outside the ordinary high water line unless the construction site is separated from waters of the state by use of an approved dike, cofferdam, or similar structure.

(((~~(2) At least one end of the bridge or stringer shall be securely anchored.~~

~~(3) The stringers or structure shall be placed by floating equipment or by working from outside the ordinary high water line and in a manner as to not damage the beds or banks.~~

~~(4)~~)) (b) The structure shall be placed by working from outside the ordinary high water line or with floating equipment and in a manner as to not damage the bed or banks.

(c) Alteration or disturbance of bank or bank vegetation shall be ((~~held to a minimum and~~)) limited to that necessary to construct the project. All disturbed areas shall be ((~~revegetated or otherwise~~)) protected from erosion and revegetated with native woody species, and maintained to ensure survival.

(((~~(5)~~))) (d) Removal of existing or temporary structures shall be accomplished so that the structure and associated material does not ((~~enter~~)) reenter the watercourse ((~~and placed so it will not re-enter the watercourse~~)).

(((~~(6)~~))) (e) The bridge shall be constructed high enough to pass flows and debris to the ((~~fifty~~)) 100-year flood level. Exception shall be granted if applicant provides design criteria to support a more appropriate level.

(f) Wastewater discharged to receiving waters shall not adversely impact fish life.

(g) Structures containing concrete shall be sufficiently cured prior to contact with water to avoid leaching.

(h) Abutments, piers, piling, sills, approach fills, etc., shall not restrict the flow so as to cause any appreciable increase in backwater elevation or scour and shall be aligned to cause the least effect on the hydraulics of the body of water.

(i) Riprap materials used for structure protection shall be clean and of sufficient size to prevent their being washed away.

(j) Wastage of paint, sandblasting material, sediments, or bridge parts into the water is prohibited.

(k) A HPA is required for bridge painting and other maintenance where there is potential for wastage of paint, sandblasting material, sediments, or bridge parts into the water, or where the work, including equipment operation, occurs within the ordinary high water line.

(2) Temporary culvert installation.

(a) Where culverts are left in place during the period of September 15 to June 15, subsection (3)(a)(i) and (ii) of this section shall apply. No temporary culvert may be left in place for more than two years from the date of the HPA.

(b) Where culverts are left in place during the period June 16 to September 14, the culvert shall be large enough to pass all anticipated flow and debris.

(c) The culvert shall be installed in the dry, or in isolation from stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. The bypass reach shall be as short as is necessary to prevent seepage or backwatering into the work area. Fish stranded in the bypass reach shall be safely removed to the flowing stream. Exception may be granted if siltation or turbidity is reduced by installing the culvert in the flowing stream.

(d) The culvert fill shall consist of clean rounded gravel ranging in size from one-quarter to three inches in diameter.

(e) The culvert and fill shall be removed, the disturbed bed and bank areas shall be reshaped to preproject configuration, revegetated with native species and the approaches shall be blocked to vehicular traffic prior to the expiration of the HPA.

(3) Permanent culvert installation.

(a) Culverts shall be designed and constructed so as not to impede fish passage:

(i) Culverts shall be placed at a maximum 0.5 percent gradient and shall be countersunk below the streambed a minimum of 20 percent of the mean culvert diameter; and the culvert diameter or footing width shall be equal to the average toe width of the stream; or

(ii) The applicant shall provide engineering calculations which demonstrate the culvert provides adequate water depths and water velocities to ensure fish passage per the departments' approval.

(b) Culverts shall be of a sufficient size to pass flows and debris to the 100-year flood level. Exception may be granted if the applicant provides design criteria to support a different level.

(c) Disturbance of the bed of a watercourse shall be limited to that necessary to place the culvert, and affected bed areas outside the culvert shall be restored to preproject condition following installation of the culvert.

(d) Fill associated with the culvert installation shall be protected from erosion.

(e) Culverts shall be designed and constructed to avoid inlet and outlet scouring and shall be oriented in a manner to prevent erosion of streambanks downstream of the project.

(f) The culvert facility shall be maintained by the owner(s), such that fish passage is not impeded. If the structure becomes a hindrance to fish passage, the owner will be financially responsible for its immediate repair.

(g) The culvert shall be installed in the dry or in isolation from stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. Exception may be

granted if siltation or turbidity is reduced by installing the culvert in the flowing stream. The bypass reach shall be as short as is necessary to prevent seepage or backwatering into the work area. Fish stranded in the bypass reach shall be safely removed to the flowing stream.

(h) If dewatering the work area becomes necessary, such water shall be directed to an area where it can be treated before being discharged to state waters to prevent adverse impacts to fish or fish habitat.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-080 CHANNEL CHANGE((~~—TEMPORARY AND PERMANENT~~))/REALIGNMENT. Channel changes/realignments are generally discouraged, and shall only be approved where the applicant can demonstrate benefits or lack of adverse impact to fish life. The following technical provisions may apply to channel change((~~—Temporary~~)) and ((~~permanent~~)) channel realignment projects:

(1) When approved, a channel change may occur provided:

(a) Permanent new channels shall, at a minimum, be similar in length, width, depth, and gradient, ((~~and meander configuration~~)) as the old channel. The new channel shall incorporate fish habitat components, bed materials, meander configuration, and native vegetation.

((~~(2) The new channel shall provide fish habitat similar to that which previously existed in the old channel.~~

~~(3)~~)) (b) During construction, the new channel shall be isolated from the flowing stream by plugs at the upstream and downstream ends of the new channel.

((~~(4)~~)) (c) Diversion of flow into a new channel shall be accomplished by: ((~~(a)~~)) (i) First removing the downstream plug; ((~~(b)~~)) (ii) removing the upstream plug; and ((~~(c)~~)) (iii) closing the upstream end of the old channel.

((~~(5)~~)) (d) Filling of the old channel shall begin from the upstream closure and the fill material shall be compacted. ((~~Water discharging from the fill shall not adversely impact fish life.~~

~~(6)~~)) (e) Before water is diverted into a permanent new channel, the ((~~banks shall be armored to prevent erosion~~)) applicant shall complete the following actions:

(i) Approved fish habitat components, bed materials and bank protection to prevent erosion shall be in place.

(ii) Approved fish habitat components shall be anchored into the bank in a manner that will ensure that they remain in place at all stream flows.

(iii) Banks shall be revegetated in accordance with approved plans with native species and maintained to ensure survival.

((~~(7)~~)) (f) The angle of the structure used to divert the water into the new channel shall allow a smooth transition of water flow.

((~~(8) After completion of the permanent new channel and filling of the old channel, all unprotected banks shall be revegetated or otherwise protected to prevent erosion.~~

~~(9) If fish may be endangered as a result of this project, the permittee will be required to capture and safely transport game and food fish from the job site to the nearest free-flowing water. The permittee may request the department of fisheries or department of game to assist in capturing and safely transporting game and food fish from the job site to free-flowing water, and assistance may be granted if personnel are available.~~)) (2) When approved, a channel realignment may occur provided:

(a) The realigned channel shall provide fish habitat, at a minimum, similar to that which previously existed.

(b) Material shall be removed from the new channel prior to placement of fill within the existing channel. Material removal shall proceed from midstream toward the bank and be completed prior to filling.

(c) Excess excavated material shall be disposed in an approved upland area so as not to reenter state waters.

(d) Prior to filling, an armored dike or other approved mechanism shall be constructed to divert the flowing stream and isolate the fill area.

(e) Filling shall begin at the upstream end and proceed downstream.

(3) Water discharging from the fill or fill area shall not adversely impact fish life.

(4) If fish may be endangered as a result of this project, the permittee shall be required to capture and safely transport game and food fish and other fish life, at the discretion of the department, from the job site to the nearest free-flowing water. The permittee may request the department to assist in capturing and safely transporting fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-100 CONDUIT CROSSING. The following technical provisions may apply to conduit crossing projects:

(1) Conduit alignment shall be as nearly perpendicular to the watercourse as possible.

(2) The conduit shall be installed at sufficient depth so that subsequent disturbance of the bed of the watercourse is avoided.

(3) If the method used is boring or jacking:

(a) Pits shall be isolated from surface water flow;

(b) ((~~All drainage water removed from the boring or jacking pit shall not adversely impact fish life; and~~

~~(c) Provisions of subsection (4)(a), (b), (c), and (d) of this section shall not apply.~~)) If dewatering the work area becomes necessary, such water shall be directed to an area where it can be treated before being discharged to waters of the state to prevent adverse impacts to fish life.

(4) If the method used is trench excavation:

(a) Trenches shall be excavated in the dry or shall be isolated from the flowing watercourse by the installation of a cofferdam, culvert, flume, or other approved method;

(b) Plowing, placement, and covering shall occur in a single pass of the equipment;

(c) Disturbance of the bed as a result of the plowing operation shall be ((~~held to a minimum; and~~

~~(d) Provisions of subsection (3)(a), (b), and (c) of this section shall not apply~~)) limited to the amount necessary to complete the project.

(5) Trenches shall be backfilled with approved materials and the bed shall be returned to preproject condition.

(6) Excess spoils shall be disposed of so as not to reenter the watercourse.

(7) The conduit approach trench shall be isolated from the watercourse until laying of the conduit across the watercourse takes place.

(8) Alteration or disturbance of the banks ((~~or~~)) and bank vegetation shall be ((~~held to a minimum and all denuded~~)) limited to that necessary to construct the project. All disturbed areas shall be ((~~revegetated or otherwise~~)) protected from erosion and revegetated with native woody species and maintained to ensure survival.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-120 TEMPORARY BYPASS CULVERT ((~~OR~~)), FLUME, OR CHANNEL. The following technical provisions may apply to temporary bypass culvert ((~~or~~)), flume, or channel projects:

(1) The temporary bypass culvert ((~~or~~)), flume, or channel shall be in place prior to initiation of other work in the wetted perimeter.

(2) A sandbag revetment or similar device shall be installed at the inlet to divert the entire flow through the culvert ((~~or~~)), flume, or channel.

(3) A sandbag revetment or similar device shall be installed at the downstream end of the culvert ((~~or~~)), flume, or channel to prevent backwater from entering the work area.

(4) The culvert ((~~or~~)), flume, or channel shall be of sufficient size to pass flows and debris occurring during the project.

(5) For division of flow into a temporary channel WAC 220-110-080 (1)(b) and (c) shall apply.

(6) Prior to releasing the water flow to the project area, all bank protection or armoring shall be completed.

((~~(6)~~)) (7) Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to preproject conditions.

((~~(7)~~)) (8) If fish may be endangered as a result of this project, the permittee ((~~will~~)) shall be required to capture and safely transport game and food fish and other fish life, at the discretion of the department, from the job site to the nearest free-flowing water. The permittee may request the department ((~~of fisheries or department of game~~)) to assist in capturing and safely transporting ((~~game and food~~)) fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-130 DREDGING. The following technical provisions may apply to dredging projects:

(1) Dredging shall not be conducted in fish spawning areas.

(2) During the dredging of a lake or pond, a boom or similar device shall be installed to contain floatable materials.

(3) Dredged bed materials shall be disposed of at department of natural resources open water disposal sites or upland sites approved by the departments.

(4) Dredging shall be conducted with dredge types that cause the lowest mortality on fish life.

(5) ((~~Dredging shall stop when distressed or dead fish are observed in the work area. The departments shall be notified immediately.~~)) If at any time, fish are observed in distress, a fish kill occurs, or water quality problems develop as a result of dredging, operations shall cease immediately and the department granting the HPA shall be immediately contacted.

(6) If a hydraulic dredge is used, it shall be operated with the intake on or below the surface of the material being removed. Reverse purging of the intake line shall be held to a minimum.

(7) If a dragline or clamshell is used, it shall be operated to minimize turbidity. During excavation, each pass with the clamshell or dragline bucket shall be complete. Dredged material shall not be stockpiled in the water.

(8) Upon completion of the dredging, the ((~~watercourse~~)) bed shall not contain pits, potholes, or large depressions.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-140 GRAVEL REMOVAL. The following technical provisions may apply to gravel removal projects:

(1) Gravel removal from a stream shall not exceed the average annual recruitment of bedload material. Additional gravel removal may be authorized where the applicant can demonstrate the channel capacity has been significantly reduced.

(2) An "excavation line" shall be established. "Excavation line" means a line on the dry bed, at or parallel to the water's edge((~~, two feet vertically above the existing water level, unless otherwise stated, and~~)), the distance from the water's edge to be determined on a site specific basis. The excavation line may change((~~s~~)) with water level fluctuations.

((~~(2) Bed material shall not be removed from the water side of the excavation line.~~

~~(3) Excavation shall begin at the excavation line and proceed toward the bank, perpendicular to the alignment of the watercourse.~~

~~(4) The maximum distance of excavation toward the bank from the excavation line shall be approximately equal throughout the excavation zone. "Excavation zone" means the area between the excavation line and the bank.~~

~~(5) The excavation zone shall be identified by boundary markers.~~

~~(6) A minimum two percent gradient upward from the excavation line shall be maintained in the excavation zone.~~

~~(7) At the end of each days' operation the excavation zone shall not contain pits or potholes.~~

~~(8) Excavated materials shall not be stockpiled or spoiled within the ordinary high water line.~~

~~(9) Equipment shall not enter the wetted perimeter of the watercourse.~~

~~(10) Debris in the excavation zone shall be disposed of so as not to reenter the watercourse.~~

~~(11) Gravel washing or crushing operations shall not take place below the ordinary high water line.~~)) (3) An "excavation zone" shall be defined as the area between the "excavation line" and the bank. The "excavation zone" shall be identified by boundary markers placed by the applicant and approved by the department prior to the commencement of gravel removal.

(4) Excavation shall begin at the excavation line and proceed toward the bank, perpendicular to the alignment of the watercourse.

(5) Bed material shall not be removed from the water side of the excavation line.

(6) Equipment shall not enter or operate within the wetted perimeter of the river or stream.

(7) Gravel may be removed within the excavation zone from a point beginning at the excavation line and progressing upward toward the bank on a minimum two percent gradient. It may be necessary to survey the excavation zone upon completion of the gravel removal operation to ensure the two percent gradient is maintained and that no depressions exist. When required the survey shall be made at the applicant's expense.

(8) At the end of each work day the excavation zone shall not contain pits, or potholes, or depressions that may trap fish as a result of fluctuation in water levels.

(9) Stockpiling of material within the ordinary high water line, after the initial bed disturbance, shall be limited to avoid impacts to fish life. If stockpiling is approved within the ordinary high water line, the material shall be completely removed prior to the onset of fish spawning in the vicinity or the typical onset of increasing stream flows. Timing restrictions shall be determined on a site specific basis. If the water level rises and makes contact with stockpiles, further operation of equipment or removal of the stockpiles shall not proceed unless authorized under a separate HPA issued by the department.

(10) The upstream end of the gravel bar shall be left undisturbed to maintain watercourse stability within the ordinary high water line.

(11) Large woody debris shall be retained within the ordinary high water line and repositioned within the watercourse. Other debris shall be disposed of so as not to reenter the watercourse.

(12) Gravel washing or crushing operations shall not take place within the ordinary high water line.

(13) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to conduct the project. All disturbed bank shall be protected from erosion and revegetated with native woody species upon project completion, and maintained as necessary to ensure survival.

(14) Banks that have been damaged or disturbed by the gravel removal operation shall be restored upon project completion.

(15) Equipment shall be inspected, cleaned, and maintained to prevent loss of petroleum products within the ordinary high water line.

(16) The department granting HPA shall be notified at least five working days before the start of actual gravel removal, and upon project completion to allow for compliance inspection.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-150 ((~~LOG AND LOG JAM REMOVAL~~)) LARGE WOODY DEBRIS REMOVAL OR REPOSITIONING. The following technical provisions may apply to ((~~log and log jam projects~~)) large woody debris removal or repositioning:

(1) ((~~Logs or log jams shall be removed by yarding from the bank.~~

~~(2) Where logs are to be yarded up a bank, skid logs or similar methods shall be used to prevent bank damage.~~

~~(3) Upon completion of the yarding operation skid logs shall be removed and the bank restored to preproject condition.~~

~~(4) Material associated with the log or debris jam shall be removed and disposed of so as not to reenter the watercourse.~~

~~(5) Logs embedded in a bank or bed shall be cut off at the bank or bed line.~~

~~(6) Log or debris jam removal shall be accomplished in a manner which prevents the release of logs or debris downstream.~~

~~(7) Depressions created in gravel bars shall be filled, smoothed over, and sloped toward the water.~~)) Large woody debris removal from watercourses shall only be approved where necessary to address safety considerations, or its removal would not diminish the fish habitat quality of the watercourse. The department may approve the repositioning of large woody debris within the watercourse to protect property. Repositioned large woody debris shall be placed or anchored to provide stable, functional fish habitat.

(2) Large woody debris shall be removed by yarding from the bank.

(3) Unless specifically authorized, large woody debris shall be suspended during its removal so no portion of the large woody debris or limbs can damage the bed or banks. Yarding corridors or full suspension shall be required to prevent damage to riparian vegetation.

(4) Where large woody debris cannot be suspended above the bed and banks, skid logs or similar methods shall be used to prevent bank damage. Upon completion of the yarding operation, skid logs shall be removed in a manner that avoids damage to streambanks and vegetation, and the bank restored to preproject condition.

(5) Smaller material associated with the large woody debris shall be removed and disposed of so as not to reenter the watercourse.

(6) Large woody debris embedded in a bank or bed shall be left undisturbed and intact except where authorized for removal.

(7) Large woody debris removal or repositioning shall be accomplished in a manner which prevents the release of bedload, logs, or debris downstream.

(8) Depressions created in gravel bars shall be filled, smoothed over, and sloped upwards toward the bank on a minimum two percent.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-160 LOGGING. The following technical provisions may apply to logging projects((:)) Any or all of these provisions may be waived provided a forest practices permit (chapter 222-16 WAC) has been obtained for the project.

(1) Trees shall not be felled into or across a watercourse except where authorized in special provisions of an individual hydraulic project approval.

(2) Trees or logs which inadvertently enter a watercourse during felling or yarding shall remain where they enter unless parts or all of the trees or logs are specifically authorized to be removed.

(3) Logs transported across a watercourse shall be suspended so no portion of the logs or limbs can enter the watercourse or damage the bed and banks. Yarding corridors or full suspension shall be required to prevent damage to riparian leave trees.

((~~(3) Debris resulting from the project shall be removed from the bed during the operation and before removal of equipment from the site. Debris removal shall be accomplished so the watercourse, bed or banks are not disturbed.~~)) (4) Cable tailholds may be placed over watercourses provided the number of yarding roads is kept to a minimum. When changing roads, the cable shall be moved around the vegetation and leave trees.

(5) If incidental limbs and other small debris enters the watercourse as a result of the logging, it shall be removed concurrently with each change in yarding road or no later than seventy-two hours after its entry into the watercourse. Existing large woody debris which existed prior to logging shall not be disturbed.

(6) Large woody debris may be removed from watercourses where the removal is beneficial for fish passage and/or its removal would not diminish the fish habitat quality of the watercourse. Large woody debris may be relocated within the watercourse if its relocation provides stable, functional fish habitat.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-170 OUTFALL STRUCTURES. The following technical provisions may apply to outfall structure projects:

(1) The outfall structure shall be designed and constructed to prevent the entry of fish.

(2) The watercourse bank and bed at the point of discharge shall be armored to prevent scouring.

(3) Excavation for placement of the structure or armoring materials shall be isolated from the wetted perimeter.

(4) Alteration or disturbance of banks ((~~or~~)) and bank vegetation shall be ((~~held to a minimum, and~~)) limited to that necessary to construct the project. All disturbed areas shall be protected from erosion and revegetated ((~~or otherwise protected from erosion~~)) with native woody species, and maintained to ensure survival.

(5) Structures containing concrete ((~~or wood preservatives~~)) shall be sufficiently cured prior to contact with water ((~~encroachment~~)), to avoid leaching.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-180 POND CONSTRUCTION. The following technical provisions may apply to pond construction projects:

(1) Ponds shall not be constructed within the watercourse.

(2) Ponds shall be designed ((~~and~~)), constructed, and screened to prevent the entry of fish unless the pond will provide beneficial habitat, as determined by the department granting the HPA, in which case free and unrestricted access will be provided.

(3) ((~~Flow from the~~)) Pond ((~~to the watercourse~~)) return flow shall be ((~~by gravity. Pond return flow shall be located near the inlet~~)) located to minimize the length of the bypass reach.

(4) ((~~Initial filling of the pond shall occur during a high flow period. Fifty percent of the flow shall be maintained within the watercourse during initial filling of the pond.~~)) The exercise of project activity shall be dependent upon first obtaining a water right or recognized claim pursuant to Title 90 RCW.

(5) The work area shall be isolated from the watercourse during construction of the pond, the diversion system, and the return flow system.

(6) Prior to the initial filling, all disturbed banks shall be revegetated or otherwise protected to prevent erosion.

(7) Ponds shall be designed and constructed so the outflow temperature is not harmful to fish life.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-190 WATER DIVERSIONS. The hydraulic code cannot be used to limit the amount or timing of water diverted under a water right. However, construction of structures or placement of devices or other work within waters of the state which will use, divert, obstruct, or change the natural flow or bed of any river or stream, or that will utilize any of the waters of the state in order to take water allowed by a water right requires a HPA. Regulation of water flow from a permanent irrigation structure by operating valves, or manipulating stop logs, check boards or head boards, does not require a HPA. Any hydraulic project activity related to a change in the manner or location of water diversion will require a HPA modification.

Persons who have gravel berm dams as the method of diversion permitted by the department prior to July 1992 shall be allowed to continue to do so provided a HPA is obtained. The departments can, however, condition the approval of gravel berms.

Installation of suction hoses or cleaning, adjusting, operating, and maintaining existing irrigation diversion structures including intakes or screens using hand-held tools, may be accomplished without first securing a written HPA. For these activities, compliance with the provisions of the latest edition of the Irrigation and Fish Pamphlet issued by the departments shall serve as the HPA. Use of hand-held tools does not include the use of equipment as defined in WAC 220-110-020(11). If a fish kill occurs or fish are observed in distress, the project activity shall cease and the departments shall be notified immediately.

Any device used for diverting water from a lake, river, or stream shall be equipped with a fish guard to prevent the passage of fish into the diversion device, pursuant to RCW 75.20.040 and 77.16.220.

The following technical provisions may apply to water diversions:

(1) Gravel berm dams shall be constructed of gravels available on site within the ordinary high water line, or of clean round gravel transported to the site. No dirt from outside the ordinary high water line shall be used to seal ((~~them~~)) the dam and no logs or woody debris ((~~presently in the river~~)) may be utilized for ((~~their~~)) construction of the dam, unless specifically authorized.

(2) Logs and large woody debris may be ((~~removed from the river or stream only~~)) relocated within the ordinary high water line, if they block water flow into the ditch or inhibit construction.

(3) As long as the applicant or permittee can divert enough water to satisfy the water right, the gravel berm dam shall be constructed so that it does not hinder upstream and downstream adult and juvenile fish passage. If passage problems develop, department ((~~of fisheries or department of game~~)) personnel may, after consultation, require modification of the gravel berm dam.

(4) At pump stations, screens and headgate areas, a backhoe or suction dredge may be used to remove accumulated silts and gravel from the pumping sump. Material removed shall be placed so it will not ((~~be washed back into the river~~)) reenter waters of the state.

(5) ((~~A diversion~~)) Any device used for ((~~conducting~~)) diverting water from a lake, river, or stream ((~~or other watercourse for any purpose~~)) shall be equipped with a fish guard ((~~(screen) approved by the department of fisheries~~)) to prevent passage of fish into the diversion device pursuant to RCW 75.20.040 and ((~~the department of game pursuant to RCW~~)) 77.16.220 ((~~to prevent the passage of fish into the diversion device~~)).

(6) The exercise of project activity shall be dependent upon first obtaining a water right or recognized claim pursuant to Title 90 RCW.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-200 MINERAL PROSPECTING (PANNING). A copy of the current Gold and Fish Pamphlet available from the departments shall be on the job site at all times and shall serve as a HPA. The following technical provisions ((~~may~~)) are found in the pamphlet and apply to mineral prospecting (panning) projects:

(1) Gold pans, mini-rocker boxes, and nonmotorized sluice boxes are allowed. The riffle area of the sluice box ((~~size~~)) shall not exceed one-foot ((~~width~~)) wide by ((~~three-foot length in the riffle area~~)) three feet long, and shall not ((~~to~~)) exceed fifty percent of the width of the wetted perimeter of the stream.

(2) All work ((~~will~~)) shall be performed by hand or with hand tools only.

(3) There shall be no disturbance of graveled spawning areas.

(4) There shall be no streambank excavation.

(5) There shall be no disturbance of rooted or embedded woody plants (trees, shrubs, etc.) within the ordinary high water line.

(6) Materials too large to be moved by hand ((~~will~~)) or hand-held tools shall not be disturbed.

(7) There shall be no damming of the flowing stream.

(8) All pits, furrows, potholes and diversions ((~~must~~)) shall be filled, leveled, or removed prior to leaving the project site, to prevent fish entrapment.

(9) No motorized, tracked, or wheeled vehicles ((~~will~~)) shall be allowed within the wetted perimeter of the stream.

(10) ((~~Any~~)) Siltation ((~~in excess of state water quality standards resulting from this project may be considered~~)) resulting from this project, which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the HPA cancelled.

(11) This HPA does not authorize entry onto private property or removal of minerals from an existing mining claim ((~~is not authorized~~)). It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or bureau of land management should be contacted regarding this.~~

~~(12) A copy of the current Gold and Fish Pamphlet shall be on the job site at all times and shall serve as a formal approval.~~))

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-210 MINERAL PROSPECTING (SLUICING). An individual written HPA will be required for all mineral prospecting (sluicing) projects. The following technical provisions may apply to mineral prospecting (sluicing) projects:

(1) ((~~Nonmotorized~~)) Motorized sluice boxes are ((~~allowed. Sluice boxes~~)) prohibited. The riffle area of the sluice box shall not be wider than two feet ((~~in the riffle area~~)) and shall not ((~~to~~)) exceed fifty percent of the wetted perimeter of the stream.

(2) Suction removal of aggregate from sluice or sluice tailings may be performed by a suction device powered by an engine of not more than 3 HP with a maximum intake nozzle size of 1.5 inches.

(3) There shall be no ((~~stream bank~~)) streambank excavation.

(4) There shall be no disturbance of graveled spawning areas.

(5) All excavations shall be performed by hand or with hand-held tools only.

(6) Materials too large to be moved by hand or hand-held tools shall not be disturbed.

(7) Diversion of the flowing stream shall be restricted to only that necessary to direct water into a sluice box.

(8) There shall be no damming of the flowing stream.

(9) All pits, furrows, and potholes and diversions ((~~must~~)) shall be filled, leveled, or removed prior to leaving the project site, to prevent fish entrapment.

(10) No motorized, tracked, or wheeled vehicles shall be allowed within the wetted perimeter of the stream.

(11) ((~~Any siltation in excess of state water quality standards resulting from this project may be considered~~)) Siltation resulting from this project, which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the ((~~hydraulics project approval~~)) HPA cancelled.

(12) This ((~~approval~~)) HPA does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or bureau of land management should be contacted regarding this.~~))

(13) A copy of the current Gold and Fish Pamphlet available from the departments shall be on the job site at all times.

(14) There shall be no disturbance of rooted or imbedded woody plants (trees, shrubs, etc.) within the ordinary high water line.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-220 MINERAL PROSPECTING (DREDGING). An individual written HPA will be required for all mineral prospecting (dredging) projects. The following technical provisions may apply to mineral prospecting (dredging) projects:

(1) This ((~~approval~~)) HPA authorizes the use of a suction dredge having a nozzle intake size not to exceed that allowed in the stream listing section of the current Gold and Fish Pamphlet for the area in which it is operated. A copy of the current Gold and Fish Pamphlet available from the departments shall be on the job site at all times.

(2) There shall be no hydraulicing (jet or nozzle) outside of the wetted perimeter.

(3) There shall be no streambank excavation.

(4) There shall be no disturbance of rooted or embedded woody plants (trees, shrubs, etc.) within the ordinary high water line.

(5) There shall be no disturbance of graveled spawning areas.

(6) All pits, furrows, and potholes ((~~must~~)) shall be filled or leveled prior to leaving the project site, to prevent fish entrapment.

(7) Damming or diversion of the stream shall be allowed, only to the extent necessary to operate a dredge, and shall be removed prior to leaving the site.

(8) No motorized, tracked, or wheeled vehicles shall be allowed within the wetted perimeter of the stream.

(9) Motorized tools shall not be used to move materials offering fish cover (boulders, logs, stumps, etc.) ((~~too large to be moved by hand~~)).

(10) Stable woody debris jams shall not be disturbed.

(11) ((~~Extreme care shall be taken to assure that~~)) No petroleum products or other deleterious material ((~~is allowed to fall, be wasted into, or otherwise deposited so as to~~)) shall enter surface waters.

(12) ((~~Any~~)) Siltation ((~~in excess of state water quality standards~~)) resulting from this project ((~~may be considered~~)) which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the ((~~hydraulic project approval~~)) HPA cancelled.

(13) This ((~~approval~~)) HPA does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or the bureau of land management should be contacted regarding this.~~

~~(14) A copy of the current Gold and Fish Pamphlet shall be on the job site at all times.~~))

NEW SECTION

WAC 220-110-223 FRESHWATER LAKE BULKHEADS. The following technical provisions may apply to freshwater bulkhead projects:

(1) The toe of the bulkhead shall be placed landward of the ordinary high water line.

(2) Rock used for the bulkhead construction shall be composed of clean, angular material of a sufficient size to prevent its being washed away by high water or wave action.

(3) Material within the ordinary high water line shall not be utilized for backfill.

(4) Excavated or dredged material shall not be stockpiled within the ordinary high water line.

(5) All trenches, depressions, or holes created within the ordinary high water line shall be backfilled prior to inundation by high water or wave action.

(6) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to prevent leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

NEW SECTION

WAC 220-110-224 FRESHWATER BOAT HOISTS, RAMPS, AND LAUNCHES. The installation and operation of portable boat hoists in lakes does not require a HPA, provided:

(1) Equipment is not operated below the ordinary high water line during installation;

(2) The hoist is not installed at the mouth of any river or stream; and

(3) Dredging, filling, or pile driving is not conducted as part of the project.

The following technical provisions may apply to boat ramps and launches in freshwater areas.

(a) Boat ramp and launch construction projects shall incorporate measures to mitigate adverse impacts to fish life.

(b) Structures containing concrete shall be sufficiently cured to prevent leaching prior to contact with water.

(c) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to prevent leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

(d) Overburden material resulting from this project shall be deposited so as not to reenter the water.

NEW SECTION

WAC 220-110-225 STORM WATER MANAGEMENT. Artificially created impervious surfaces increase storm water run-off, resulting in changes to the flow and bed of waters of the state, adversely impacting fish life. Run-off from impervious surfaces increases peak flow magnitude of storm run-off events. Rainfall infiltration is reduced

or eliminated by impervious surfaces, causing surface flows to be decreased or eliminated during critical low flow periods.

The following technical provisions may apply to projects which create areas of impervious surface equal to or greater than 5,000 square feet.

(1) Applications, plans, and specifications for storm water HPAs shall include the following:

(a) Applicants shall use a continuous simulation model or event based hydrograph model for storm water run-off computations. When using an event based hydrograph model in western Washington, the calculated detention volume shall be increased by a factor of 1.2 for residential and 1.5 for commercial development sites, without changing the pond depth or outflow configuration.

(b) Where soils are suitable, project applications shall include plans for infiltration of storm water run-off.

(c) Where soils are not suitable for infiltration, project applications shall specify that storm water is detained and released to surface waters consistent with the following maximum release rate criteria:

(i) The peak release rate for the two-year developed design storm shall not exceed fifty percent of the peak release rate for the two-year predevelopment design storm;

(ii) The peak release rate for the ten-year developed design storm shall not exceed the peak release rate for the ten-year predevelopment design storm; and

(iii) The peak release rate for the one hundred-year developed design storm conditions shall not exceed the peak release rate for the one hundred-year predevelopment design storm.

(d) Project applications shall include erosion and sediment control measures for the complete time period when exposed soils are present.

(e) Project applications shall contain an operation and maintenance plan for all storm water facilities. The party, or parties, responsible for maintenance and operation shall be identified.

(f) Project applications shall contain methods of treating storm water prior to release to ground or surface waters. Storm water runoff shall be treated by passing the water through, in descending order of preference, constructed wetlands, wet ponds, or presettling basins with biofilters to remove fine sediment and contaminants. Other treatment methods may be acceptable, subject to review and approval by the department.

Watershed basin plans approved by the department may be used to modify the requirements above, provided that the basin plan equals or exceeds the protection for fish life provided in these requirements.

(2) The storm water facility shall be maintained by the owner or other responsible party, to continue to meet design criteria. Maintenance will be conducted in a manner that does not impair fish life.

(3) An HPA is not required for maintenance of the bed of the storm water facility unless the maintenance will impact the bed or flow of a watercourse, result in the release of sediments to a watercourse, or result in increased release rates of storm water to watercourses downstream.

AMENDATORY SECTION (Amending Order 84-04, filed 1/30/84)

WAC 220-110-250 ((~~SURF SMELT SPAWNING BEDS~~)) SALTWATER HABITATS OF SPECIAL CONCERN. ((~~Surf smelt spawning beds are defined as follows:~~

~~(1) All beds within Tidal Reference Area 2 between +9.0 feet and +14.0 feet above MLLW in:~~

~~(a) Totten Inlet westerly and southerly of a line projected from Windy Point to Gallagher Cove, except Skookum Inlet westerly of a line projected true north from the entrance to Wildcat Cove, and except that part of Oyster Bay westerly of a line projected true south from the Olympia Oyster Company plant;~~

~~(b) Eld Inlet from Flapjack Point southerly to Rocky Point, and from Cooper Point south to the line of 47° 3' 36" N. latitude;~~

~~(c) Budd Inlet from Cooper Point south to 47° 4' 6" N. latitude, and from Dofflemyer Point south to 47° 3' 48" N. latitude;~~

~~(d) Henderson Inlet from Johnson Point southerly to 47° 7' N. latitude; and~~

~~(e) Case Inlet (North Bay) from the mouth of Sherwood Creek north to a point 1/4 mile north of the city of Tacoma's Lake Cushman transmission line.~~

~~(2) All beds within Tidal Reference Area 4 between +7.0 feet and +11.5 feet above MLLW in Quartermaster Harbor north of a line projected true west from the northern tip of Dockton.~~

~~(3) All beds within Tidal Reference Area 5 between +7.0 feet and +11.0 feet above MLLW in:~~

~~(a) Sinclair Inlet from the west city limits of Port Orchard west to 122° 40' W. longitude;~~

~~(b) Liberty Bay northerly of a line projected from Bolin Point westerly to the southern property line of the United States Naval Facility;~~

~~(c) Dyes Inlet from Silverdale south to Chico;~~

~~(d) Dyes Inlet along the west shore of Marine Drive Peninsula from its northern terminus south to a point 300 feet south of Madrona Point;~~

~~(e) Dyes Inlet along the west shore of Madrona Point from the southern boundary of Section 9 north a distance of 600 feet; and~~

~~(f) Dyes Inlet along the southern shore of Elwood Point Peninsula.~~

~~(4) All beds within Tidal Reference Area 7 between +7.0 feet and +11.0 feet above MLLW in Port Susan from the entrance to Triangle Cove south to Camano Country Club.~~

~~(5) All beds within Tidal Reference Area 8 between +7.0 feet and +11.0 feet above MLLW in:~~

~~(a) Saratoga Passage from Onamac Point northerly to Rocky Point, then easterly to Brown Point in Skagit Bay;~~

~~(b) Skagit Bay from the mouth of Dugualla Bay southeasterly for about 2 miles to 48° 19' 54" N. latitude;~~

~~(c) Saratoga Passage from Mueliers Park in Penn Cove easterly and southerly to a point on Whidbey Island determined by projecting a line true west from Onamac Point;~~

~~(d) Penn Cove from San de Fuca to Penn Cove Park;~~

~~(e) Oak Harbor from the boat ramp to Blowers Bluff, and~~

~~(f) Crescent Harbor adjacent to the United States Naval Air Station property.~~

~~(6) All beds within Tidal Reference Area 9 between +6.0 feet and +8.5 feet above MLLW in:~~

~~(a) Fidalgo Bay along the north side of Weaverling Spit;~~

~~(b) Fidalgo Bay from the tip of Crandall Spit northerly and easterly to the east side of March Point; and~~

~~(c) Along the east shore of Fidalgo Bay between a point 1350 feet south of Fidalgo and a point 3900 feet north of Fidalgo.~~

~~(7) All beds within Tidal Reference Area 10 between +5.5 feet and +8.0 feet above MLLW in:~~

~~(a) Kilisut Harbor (Scow Bay) south of a line projected true west from the mouth of Mystery Bay;~~

~~(b) Dungeness Harbor from "Gun Club Spit" at Old Town westerly to the boundary of the Dungeness Wildlife Refuge at the base of Dungeness Spit;~~

~~(c) The Strait of Juan de Fuca from 300 yards east of the mouth of East Twin River westerly to 300 yards west of the mouth of West Twin River; and~~

~~(d) The Strait of Juan de Fuca at the mouth of Deep Creek and easterly for 1,400 yards.~~

~~(8) All beds within Tidal Reference Area 11 between +7.0 feet and +11.5 feet above MLLW in Hood Canal east of a line projected true south from the west side of the Tahuya River and west of a line projected from Rose Point to the mouth of Little Mission Creek.~~

~~(9) All beach area within Tidal Reference Area 14 below +9.0 feet above MLLW from Cape Johnson south to the Quinault Indian Reservation.~~)) (1) Surf smelt (Hypomesus pretiosus) spawning beds are located in the upper beach area in saltwater areas containing sand and/or gravel bed materials.

(2) Pacific sand lance (Ammodytes hexapterus) spawning beds are located in the upper beach area in saltwater areas containing sand and/or gravel bed materials.

(3) Rock sole (Lepidopsetta bilineata) spawning beds are located in the upper and middle beach area in saltwater areas containing sand and/or gravel bed materials.

(4) Pacific herring (Clupea harengus pallasi) spawning beds occur in lower beach areas and shallow subtidal areas in saltwater areas. These beds include eelgrass (Zostera spp) and other saltwater vegetation and/or other bed materials such as subtidal worm tubes.

(5) Rockfish (Sebastes spp) settlement and nursery areas are located in kelp beds, eelgrass (Zostera spp) beds, saltwater vegetation, and other bed materials.

(6) Lingcod (Ophiodon elongatus) settlement and nursery areas are located in beach and subtidal areas with sand, eelgrass (Zostera spp), subtidal worm tubes, and other bed materials.

(7) Juvenile salmonid migration corridors, and rearing and feeding areas.

In identified spawning areas, settlement and nursery areas, migration corridors, and rearing and feeding areas noted above, or areas in

close proximity with similar bed materials, specific restrictions regarding project type, design, location, and timing shall apply. Juvenile salmonid migration corridors, and rearing and feeding areas are ubiquitous throughout shallow nearshore saltwater areas of the state. Not all other saltwater habitats of special concern are presently identified. Once other habitats of special concern are identified, they will be added to a central data base maintained by the department of fisheries. Contact the habitat management division for information regarding specific project sites.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-270 COMMON SALTWATER TECHNICAL PROVISIONS. Technical provisions that commonly apply to projects in ((~~the~~)) saltwater area are as follows:

(1) Use of equipment on the beach area shall be ((~~held to a minimum and~~)) confined to specific access and work corridors.

(2) ((~~Beach area~~)) Bed material shall not be utilized for project construction or fills.

(3) ((~~Fresh concrete shall be cured or covered to prevent leaching, prior to water contact.~~)) Wet concrete shall be prevented from entering waters of the state. Forms for any concrete structure shall be constructed to prevent leaching of wet concrete. Impervious material shall be placed over any exposed concrete not lined with forms that will come in contact with waters of the state. Forms and impervious material shall remain in place until the concrete is cured.

(4) Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion. Hydraulic clam harvesters shall comply with those conditions specified in WAC 220-52-018.

(5) Debris or deleterious material resulting from construction shall be removed from the beach area and project site and ((~~prevented from entering state~~)) shall not be allowed to enter waters of the state.

(6) Project activities shall be conducted to minimize siltation ((~~on~~)) of beach areas and bed materials.

(7) All piling, lumber, and other materials treated with ((~~creosote or other~~)) preservatives shall be ((~~dry before use in~~)) sufficiently cured to prevent leaching into the water or bed.

(8) Project activities shall not degrade water quality to the detriment of fish life.

(9) If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and the department granting HPA shall be notified immediately.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-280 SALTWATER BULKHEADS AND ASSOCIATED FILLS. The following technical provisions commonly apply to bulkhead and associated fill projects in saltwater areas.

(1) ((~~The~~)) Construction of ((~~sloping or vertical~~)) a new bulkhead((~~s and the~~)) or rock wall shall be located no further waterward from the ordinary high water line than necessary for placement of ((~~associated fill is restricted to the tidal elevations and time periods provided for in this section.~~

~~(2) The lowest tidal elevations for the toe of sloping or vertical bulkheads is as follows:~~

| Tidal Reference Area No. | Name | Vertical or Sloping bulkheads adjacent to smelt spawning beds | All other beach areas: Vertical bulkhead | All other beach areas: Sloping bulkhead |
|---|---|---|---|---|
| 1 | Shelton | N/A[1] | +11.5 ft | +8.0 ft |
| 2 | Olympia | +14.0 ft | +11.6 | +8.3 |
| 3 | South Puget Sound | N/A | +10.7 | +7.7 |
| 4 | Tacoma | +11.5 | +9.4 | +6.9 |
| 5 | Seattle | +11.0 | +9.0 | +6.6 |
| 6 | Edmonds | N/A | +8.9 | +6.6 |
| 7 | Everett | +11.0 | +8.8 | +6.5 |
| 8 | Yokeko Point | +11.0 | +8.7 | +6.5 |
| 9 | Blaine | +8.5 | +7.5 | +6.1 |
| 10 | Port Townsend | +8.0 | +6.5 | +5.1 |
| 11 | Union | +11.5 | +9.4 | +6.9 |
| 12 | Seabeck | N/A | +9.2 | +6.8 |
| 13 | Bangor | N/A | +8.7 | +6.5 |
| 14 | Ocean Beaches | +9.0 | +7.8 | +7.8 |
| 15 | Westport | N/A | +8.3 | +4.8 |
| 16 | Aberdeen | N/A | +9.4 | +5.4 |
| 17 | Willapa Bay | N/A | +9.1 | +5.2 |

[1]Not applicable because there are no known surf smelt spawning beds.~~

~~(3)~~)) the footing or base rock.

(2) Replacement or repair of an existing, functioning bulkhead shall result in no further waterward encroachment.

(3) Bulkhead construction is generally prohibited during the following time periods: These timing restrictions typically apply but are subject to change based on new information.

(a) The prohibited times for protection of migrating juvenile salmonids and surf smelt spawning beds are listed in the following table. Exceptions for limited bulkhead construction may be approved during the restricted periods. Project specifications will be evaluated on a case-by-case basis to determine applicability.

PROHIBITED TIMES

| TIDAL REFERENCE AREA | JUVENILE SALMONID MIGRATION | SURF SMELT SPAWNING BEDS |
|---|---|---|
| 1 | March 15 - June 14 | — |
| 2 | March 15 - June 14 | August 15 - March 31 |
| 3 | March 15 - June 14 | October 1 - March 14 |
| 4 | March 15 - June 14 | October 1 - March 14 |
| 5 | March 15 - June 14 | September 1 - March 31 |
| 6 | March 15 - June 14 | — |
| 7 | March 15 - June 14 | May 15 - October 14 |
| 8 | March 15 - June 14 | May 15 - October 14 |
| 9 | March 15 - June 14 | June 1 - September 30 in Cherry and Birch Points<br>October 1 - March 31 in Fidalgo Bay |
| 10 | March 15 - June 14 | Sept. 15 - October 31 in Kilisut Harbor<br>October 15 - January 14 in Dungeness Bay<br>May 1 - August 31 in Twin Rivers and Deep Creek<br>January 1 - December 31 in San Juan Islands |
| 11 | March 15 - June 14 | September 15 - March 1 |
| 12 | March 15 - June 14 | — |
| 13 | March 15 - June 14 | October 15 - January 31 |
| 14 | March 1 - June 14 | — |
| 15 | March 1 - June 14 | — |
| 16 | March 1 - June 14 | — |
| 17 | March 1 - June 14 | — |

(b) Tidal Reference Areas 1 through 17; October 15 through March 1 in or adjacent to Pacific sand lance spawning beds.

(c) Tidal Reference Areas 1 through 17; December 15 through March 31 in or adjacent to rock sole spawning beds.

(d) Tidal Reference Areas 1 through 17; May 15 through October 14 in or adjacent to lingcod settlement and nursery areas.

(e) Additional timing restrictions may apply for protection of other species of fish or shellfish.

(4) The faces of bulkheads shall be constructed of permanent material not readily subject to erosion.

(((~~(4) Sloping bulkheads shall have a slope not steeper than 1.5 feet horizontal to 1 foot vertical.~~)))

(5) ((~~Bulkheads shall be constructed only during periods of low tide.~~

~~(6) Bulkhead forms shall be constructed so that leaching of concrete is minimized. Exposed concrete shall be covered or cured prior to water contact.~~

~~(7) Bulkhead construction is restricted to the following time periods:~~

~~(a) Tidal Reference Area 1: June 16 through March 14.~~

~~(b) Tidal Reference Area 2: June 16 through March 14 except June 16 through July 20 only adjacent to smelt spawning beds.~~

~~(c) Tidal Reference Area 3: June 16 through March 14.~~
~~(d) Tidal Reference Area 4: June 16 through March 14, except March 1 through March 14 and June 16 through September 30 adjacent to smelt spawning beds.~~
~~(e) Tidal Reference Area 5: June 16 through March 14, except:~~
~~(i) March 1 through March 14 and June 16 through August 30 adjacent to Liberty Bay smelt spawning beds; and~~
~~(ii) June 16 through October 15 adjacent to smelt spawning beds within Sinclair Inlet and Dyes Inlet.~~
~~(f) Tidal Reference Area 6: June 16 through March 14.~~
~~(g) Tidal Reference Area 7: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.~~
~~(h) Tidal Reference Area 8: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.~~
~~(i) Tidal Reference Area 9: June 16 through March 14, except June 16 through September 30 adjacent to smelt spawning beds.~~
~~(j) Tidal Reference Area 10: June 16 through March 14, except:~~
~~(i) June 16 through September 10 and November 10 through March 14 adjacent to smelt spawning beds within Kilisut Harbor;~~
~~(ii) June 16 through October 15 and January 15 through March 14 adjacent to smelt spawning beds within Dungeness Harbor; and~~
~~(iii) September 1 through May 1 adjacent to Smelt spawning beds at Twin Rivers and Deep Creek.~~
~~(k) Tidal Reference Area 11: June 16 through March 14, except June 16 through September 10 and February 1 through March 15 adjacent to smelt spawning beds in southern Hood Canal.~~
~~(l) Tidal Reference Area 12: June 16 through March 14.~~
~~(m) Tidal Reference Area 13: June 16 through March 14.~~
~~(n) Tidal Reference Area 14 through 17: January 1 through December 31.~~)) Project activities shall not occur when the project area is inundated by tidal waters.

(6) Removal of overhanging bankline vegetation shall be limited only to what is absolutely necessary for the construction of the bulkhead.

(7) All natural habitat features on the beach larger than twelve inches in diameter including trees, stumps and logs, and large rocks shall be retained on the beach following construction.

(8) Excavated materials containing silt, clay, or fine grained soil shall not be stockpiled on the beach.

(9) When stockpiling of sand, gravel, and other coarse excavated material is allowed on the beach, it shall be placed within a designated work corridor waterward of the bulkhead footing. All excavated material shall be removed from the beach within seventy-two hours of bulkhead construction.

(10) If sand, gravel and other coarse excavated material is to be temporarily placed where it will come into contact with tidal waters, this material shall be covered with filter fabric and adequately secured to prevent erosion and/or potential entrainment of fish.

(11) All trenches, depressions, or holes created in the intertidal area shall be backfilled prior to inundation by tidal waters. Trenches excavated for footings or placement of base rock may remain open during construction, however fish shall be prevented from entering such trenches.

NEW SECTION

WAC 220-110-285 SINGLE FAMILY RESIDENCE BULKHEAD. The following provisions apply to bulkheads in saltwater areas on single family residence property.

(1) Construction of single family residence bulkheads shall comply with provisions in WAC 220-110-240 through 220-110-280.

(2) Critical food fish and shellfish habitats pertaining to single family residence bulkheads as identified in RCW 75.20.160 are those habitats that serve an essential function in the developmental life history of fish or shellfish. The cumulative loss of these habitats will result in a permanent loss of fish and shellfish resources. These habitats include but are not limited to the following:

(a) Pacific herring, surf smelt, Pacific sand lance, rock sole, and other marine fish spawning beds;
(b) Intertidal wetland vegetation;
(c) Eelgrass (Zostera spp.);
(d) Kelp and other saltwater algae;
(e) Lingcod settlement and nursery areas;
(f) Rockfish settlement and nursery areas;
(g) Juvenile salmonid migration corridors, and rearing and feeding areas.

(3) The waterward face of a new bulkhead or rockwall shall be located only as far waterward as necessary to excavate for footings or place base rock for the structure and under no conditions shall be located more than six feet waterward of the ordinary high water line.

(4) The waterward face of a replacement bulkhead or rockwall shall be placed no further waterward than the face of the existing, functioning bulkhead or rockwall except where removal of the existing bulkhead or rockwall would result in environmental degradation or removal problems due to geological, engineering, or safety concerns.

(5) In those instances where it is impossible based on geological, engineering, or safety considerations to eliminate further waterward encroachment of the bulkhead replacement or repair, it shall be placed waterward of and directly abutting the existing structure. The type of structure and method of construction that allows the least waterward encroachment shall be utilized in these instances.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-290 SALTWATER BOAT RAMPS AND LAUNCHES. The following technical provisions commonly apply to saltwater area boat ramp and launch projects.

(1) Railway-type boat launches ((~~on smelt and herring spawning beds~~)) shall be designed to cause minimal interference with tidal currents and littoral drift.

(2) Boat ramp projects shall incorporate mitigation measures to avoid loss of habitat.

(3) The construction of ((~~concrete boat launch ramps or the placement of other material for solid~~)) boat ((~~launch~~)) ramps is prohibited on surf smelt, Pacific sand lance, rock sole, and Pacific herring spawning beds and rockfish and lingcod settlement and nursery areas. Other restrictions may apply for other species of fish or shellfish.

(((~~(3)~~))) (4) The slope of boat ((~~launch~~)) ramp sides shall be no steeper than ((~~1:5~~)) one and one-half feet horizontal to ((~~1~~)) one foot vertical.

(5) Boat ramp and launch construction projects shall incorporate measures to mitigate adverse impacts to fish life.

AMENDATORY SECTION (Amending Order 84-04, filed 1/30/84)

WAC 220-110-300 SALTWATER PIERS, PILINGS, DOCKS, AND FLOATS. The following technical provisions commonly apply to pier, piling, dock, and float projects in saltwater areas.

(1) ((~~Pile driving in or adjacent to surf smelt and herring spawning beds is permitted only as follows:~~)) Construction of piers, docks, and floats, and driving or removing piles, and associated work shall conform with timing restrictions listed in WAC 220-110-280(3).

((

| ~~Tidal Reference Area~~ | ~~Permitted Times~~ ~~Smelt spawning beds~~ | ~~Herring spawning beds~~ |
|---|---|---|
| ~~1~~ | ~~January 1-December 31~~ | ~~January 1-December 31~~ |
| ~~2~~ | ~~April 1-July 20~~ | ~~April 1-December 31~~ |
| ~~3~~ | ~~January 1-December 31~~ | ~~January 1-December 31~~ |
| ~~4~~ | ~~March 1-October 1~~ | ~~April 1-January 10~~ |
| ~~5~~ | ~~March 1-September 1 in Liberty Bay~~<br>~~February 15-October 15 in Sinclair-Dyes Inlet~~ | ~~March 20-January 20 in Port Orchard~~<br>~~April 10-February 20 in Port Madison~~<br>~~March 25-January 10 in Dyes Inlet~~ |
| ~~6~~ | ~~January 1-December 31~~ | ~~January 1-December 31~~ |
| ~~7~~ | ~~October 15-May 15~~ | ~~April 15-February 15~~ |
| ~~8~~ | ~~October 15-May 15~~ | ~~April 10-February 10~~ |
| ~~9~~ | ~~March 15-October 1~~ | ~~June 1-January 31 at Point Roberts~~<br>~~June 15-February 10 Blaine-Birch Bay; Point Whitehorn to Sandy Point; and Hale Passage and Portage Bay~~<br>~~April 10-February 20 in Samish Bay~~<br>~~April 10-February 10 in Padilla Bay, Fidalgo Bay~~ |
| ~~10~~ | ~~January 15-October 15 in Dungeness Harbor~~ | ~~April 15-February 1 West Sound, East Sound, Orcas Island~~ |
| | ~~November 10-September 10 in Kilisut Harbor~~ | ~~March 15-January 15 Hunter Bay, Lopez Island~~ |
| | ~~September 1-May 1 at Twin Rivers and Deep Creek~~ | ~~April 10-January 10 Mosquito Pass, San Juan Islands~~ |

((

| Tidal Reference Area | Permitted Times Smelt spawning beds | Herring spawning beds |
|---|---|---|
| | | March 20-January 31 New Dungeness Harbor<br>April 10-February 1, Discovery Bay<br>March 1-January 31 Sequim Bay<br>March 20-January 31 Port Townsend, Kilisut Harbor |
| 11 | December 1-September 10 | March-January 15 |
| 12 | January 1-December 31 | April 15-February 10 |
| 13 | January 1-December 31 | April 1-January 31 |
| 14 | September 1-April 1 | January 1-December 31 |
| 15 | January 1-December 31 | January 1-December 31 |
| 16 | January 1-December 31 | January 1-December 31 |
| 17 | January 1-December 31 | March 15-January 15 |

))

(2) ((In addition to those limitations listed in WAC 220-110-300(1) pile driving may be further restricted to protect juvenile salmonids or other species of fish.

(3))) In addition, construction of piers, docks, and floats and driving or removing piles, and associated work is prohibited in and adjacent to Pacific herring spawning beds referenced below during the following time periods. The following timing restrictions typically apply, however, they are subject to change based on new information. Additional timing restrictions may be imposed for other species.

PROHIBITED TIMES

| TIDAL REFERENCE AREAS | HERRING SPAWNING BEDS | |
|---|---|---|
| 1 | January 15 – March 31 | |
| 2 | January 15 – March 31 | |
| 3 | — | |
| 4 | January 15 – April 14 | |
| 5 | January 15 – April 30 | |
| 6 | — | |
| 7 | February 1 – April 14 | |
| 8 | February 1 – April 14 | |
| 9 | February 1 – April 14 | south of a line running due west from Governor's Point |
| | February 1 – June 14 | north of a line running due west from Governor's Point |
| 10 | January 15 – April 30 | |
| 11 | January 15 – March 31 | |
| 12 | February 15 – April 14 | |
| 13 | January 15 – April 14 | |
| 14 | — | |
| 15 | — | |
| 16 | — | |
| 17 | February 1 – March 14 | |

(3) Floats and rafts shall be located and/or anchored to prevent grounding on surf smelt ((and)), Pacific herring, Pacific sand lance, rock sole, and other marine fish spawning beds ((during periods of low tides)).

(4) Floats, rafts, and their anchoring systems ((for floating structures)) shall be designed and deployed so that the bed((s are)) is not damaged.

(5) Piers, ramps, docks, floats, and associated moorings shall be located to avoid shading of eelgrass (Zostera spp.) and other saltwater vegetation.

(6) Piers, ramps, docks, floats, and associated mooring projects shall incorporate mitigation measures to avoid loss of habitat.

(7) Piers, ramps, docks, and floats, and associated moorings shall not be located over Pacific herring spawning beds or rockfish and/or lingcod settlement and nursery habitat.

(8) Piers, ramps, docks, floats, and associated moorings shall be designed and located to avoid adverse impacts to salmonid migration routes and rearing habitats.

(9) Floatation for the structure shall be enclosed and contained to permanently prevent the breakup or loss of the floatation material into the water.

(10) Boathouses and houseboats shall be located to avoid shading of eelgrass (Zostera spp.) and other saltwater vegetation and shall not be located landward of -10.0 MLLW.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-320 DREDGING IN SALTWATER AREAS. The following technical provisions commonly apply to dredging projects.

(1) Dredging in Tidal Reference Areas 1 through ((13 is limited to the period June 16 through March 15.

(2) Dredging in Tidal Reference Area 14 is permitted year-round.

(3) Dredging in Tidal Reference Area 15 in water shallower than the minus twenty (-20.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 28.

(4) Dredging in Tidal Reference Area 16 in water shallower than the minus twenty (-20.0) foot contour (MLLW = 0.0) is limited to the period June 16 through February 15.

(5) Dredging in Tidal Reference Area 17 in water shallower than the minus twenty (-20.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 15.

(6) Floatable materials such as debris and piling shall not be disposed of in the water.

(7) Dredging shall stop if distressed or dead fish are observed in the work area, and the departments shall be notified immediately.

(8))) 17 shall conform with timing restrictions listed in WAC 220-110-280 and 220-110-300.

(2) In addition to those timing limitations listed in WAC 220-110-280 and 220-110-300, dredging may be further restricted to protect other fish life.

(3) If a fish kill occurs or fish are observed in distress, dredging shall immediately cease and the department granting HPA shall be notified immediately.

(4) A hydraulic dredge shall ((not)) only be operated with the intake ((above)) at or below the surface of the material being removed. The intake ((may)) shall only be raised ((not over 3)) a maximum of three feet above the bed for brief periods of purging or flushing the intake system. ((This provision does not apply to hopper dredges.

(9))) (5) Dredged bed materials shall be disposed of at ((department of natural resources)) approved deep water disposal sites or approved upland sites.

(((10))) (6) Dredging shall be conducted to a depth not greater than the channel depth at the seaward end.

(((11))) (7) Dredging is prohibited on herring spawning beds and in rockfish and lingcod settlement and nursery areas.

(((12))) (8) Dredging shall be conducted with dredge types that cause the least adverse impact ((on)) to fish and shellfish and their habitat.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-330 MARINAS. The following policies and technical provisions commonly apply to marina projects.

(1) The construction of marinas is prohibited on surf smelt, Pacific sand lance, rock sole, and Pacific herring, and other marine fish spawning beds because proven mitigation measures are currently unavailable.

(2) The construction of marinas is prohibited in lingcod and rockfish settlement and nursery areas because proven mitigation measures are currently unavailable.

(3) Marina construction projects shall incorporate mitigation measures to avoid loss of habitat.

(4) Open-type construction, utilizing floating breakwaters and open pile work, shall be used whenever practicable.

(((2))) (5) Physical modeling, numerical models, or other information that demonstrates adequate water exchange and circulation may be required.

(((3))) (6) All navigation channels and breaches shall be maintained at or below marina depth to provide adequate fish passage.

(((4))) (7) Isolated breakwaters beyond the line of extreme low tide shall be constructed of permanent material. No slope restrictions apply.

(((5))) (8) The following provisions apply to marina construction shoreward of the existing ordinary high water line:

(a) A single entrance may be required.

(b) The entire inner shoreline shall be in conformance with bulkheading provisions in WAC 220-110-280. ((Between the bulkhead toe

~~and the 0-tide level the beach face shall be sloped a minimum of 1.5 feet horizontal to 1 foot vertical.~~

~~(6)~~)) (9) The following provisions apply to marina construction waterward of the ordinary high water line:

(a) The beach area inside the marina may be protected in accordance with bulkheading provisions in WAC 220-110-280. Between the elevation of the toe of the bulkhead and ((~~the 0-tide level~~)) MLLW the beach face shall not exceed a slope of ((~~1.5~~)) one and one-half feet horizontal to ((~~1~~)) one foot vertical.

(b) For a single entrance or breach marina, the breakwater structure shall not exceed ((~~a 1.5~~)) one and one-half feet horizontal to ((~~1~~)) one foot vertical slope inside and outside the marina.

(c) The following provisions apply when a marina includes breaches that form shore breakwaters (jetties) and detached breakwaters:

(i) The toe of the shore breakwaters (jetties) may extend seaward to ((~~the 0-foot tide level~~)) MLLW, but shall not extend seaward more than 250 feet from MHHW.

(ii) The shore breakwaters shall have a minimum slope of 1.5 feet horizontal to 1 foot vertical throughout.

(iii) The breaches between the shore breakwaters and the detached breakwaters shall be not less than 20 feet in width measured at the toe of the slope.

(d) Construction of piers, ramps, docks, and floats and driving or replacing piles shall be in conformance with provisions in WAC 220-110-300.

(e) Dredging associated with marinas shall be in conformance with provisions in WAC 220-110-320.

(f) Covered moorages shall be designed and located to avoid detrimental impacts to fish and shellfish habitats.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-340 INFORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS. Any person who has received a civil penalty notice of violation of any provision of RCW 75.20.100 or 75-.20.103, any person who, upon proper application pursuant to RCW 75.20.100 ((~~or~~)), 75.20.103, or 75.20.160, is denied a requested ((~~hydraulic project approval~~)) HPA, any person who wishes to contest a condition placed in a granted ((~~approval~~)) HPA, or any person who is aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to RCW 75.20.100 ((~~or~~)), 75.20.103, or 75.20.160 may initiate an informal agency review of any such decision by notifying a field representative of the department having jurisdiction over the project site. Requests for informal appeal shall be filed within thirty days of issuance or denial of a HPA or issuance of a civil penalty notice of violation. Upon the receipt of a request for informal agency review, the department having jurisdiction over the site shall coordinate a comprehensive review of the agency decision by the chief or the designee of the habitat management division in the department of fisheries or the regulatory services program manager, or designee in the department of wildlife whose ((~~ultimate~~)) decision shall be approved or disapproved by the director or designee. If, following this informal agency review process, any person still feels aggrieved by the agency decision, a formal appeal may be taken pursuant to WAC 220-110-350. All parties are encouraged to take advantage of this informal appeal process prior to initiating a formal appeal.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-350 FORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS. (1) Any person ((~~issued a civil penalty pursuant to RCW 75.20.106 for being in violation of RCW 75-.20.100 or 75.20.103, any person denied a hydraulic project approval requested pursuant to RCW 75.20.100, any person wishing to contest a condition placed in an approval granted pursuant to RCW 75.20.100, or any person aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to RCW 75.20.100 is entitled to an opportunity for hearing, pursuant to the Administrative Procedure Act, chapter 34.04 RCW. To obtain a hearing, a written request must be filed with the department that issued or denied the approval or levied the civil penalty. The mailing addresses are: Department of Fisheries, Habitat Management Division, Room 115, General Administration Building, Olympia, WA 98504; Department of Game, Habitat Management Division, 600 North Capitol Way, Olympia, WA 98504. Requests must be received within thirty days from the date of denial of a hydraulic approval or issuance of an approval with contested conditions. Hearings are conducted pursuant to the Uniform Procedure Rules, chapter 1-08 WAC, unless modified in writing and by agreement of the parties. Ordinarily, it is expected that an aggrieved party seeking administrative review will waive the notice of hearing requirements provided by RCW 34.04.090(1) in order to provide an expeditious decision. An administrative law judge will hear all evidence, subsequently, proposed findings of fact, conclusions of law, proposed order, and exceptions and replies thereto, and written argument, if any, shall be prepared and presented to the director, together with a tape of the contested case hearing, for final decision. All final decisions are appealable as provided by the Administrative Procedure Act, chapter 34.04 RCW. Administrative law judges will be provided by the office of administrative hearings.~~

~~(2) Any person denied a hydraulic project approval requested pursuant to RCW 75.20.103, any person wishing to contest a condition or modification of an approval granted pursuant to RCW 75.20.103, or any person aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to RCW 75.20.103 is entitled to an opportunity for hearing before the hydraulic appeals board established in RCW 75.20.130 and outlined in chapter 259-04 WAC.~~)) with standing to contest an "agency action" made pursuant to chapter 75.20 RCW may have the opportunity to request a hearing in accordance with chapter 34.05 RCW. The phrase "agency action" is defined in RCW 34.05.010(3).

(2) Requests for a hearing shall be in writing and filed within thirty days of service of the notice of opportunity for a hearing. Written requests for a hearing shall be submitted to the following addresses: Department of Fisheries, Habitat Management Division, PO Box 43155, Olympia, WA 98504-3155; Department of Wildlife, Habitat Division, 600 Capitol Way North, Olympia, WA 98501-1091.

(3) Hearings will be conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW, and the Model Rules of Procedure, chapter 10-08 WAC. Except as provided in subsection (4) of this section, the director of the department of fisheries or the department of wildlife, or their designees, shall issue the final order.

(4) Any person denied an HPA requested pursuant to RCW 75.20-.103 or 75.20.160, any person wishing to contest a condition or modification of an HPA granted pursuant to RCW 75.20.103 or 75.20.160, or any person aggrieved by an HPA or the conditions thereon issued pursuant to RCW 75.20.103 or 75.20.160 is entitled to an opportunity for hearing before the hydraulic appeals board established in RCW 75.20.130 and chapter 259-04 WAC. The hydraulic appeals board shall issue the final order.

NEW SECTION

WAC 220-110-360 PENALTIES. (1) Any person that commences any activity subject to RCW 75.20.100 or 75.20.103 without having first obtained a HPA from the department or any person that fails to comply with any of the requirements or provisions of a HPA, that person is guilty of a gross misdemeanor.

(2) The department may seek civil remedies including a civil penalty of up to one hundred dollars per day. The amount of the civil penalty shall be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty. The notice shall describe the violation, the amount of the penalty, how to pay the penalty, and the appeal rights of the person incurring the penalty. The civil penalty may accumulate daily from the date of the violation. Civil penalties continue to accrue during the appeal process, however, the penalties shall not be due and payable until the department's final order is issued.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-110-090 CHANNEL REALIGNMENT.
WAC 220-110-110 CULVERT INSTALLATION.

## WSR 92-11-083
## PROPOSED RULES
## DEPARTMENT OF FISHERIES
[Filed May 20, 1992, 11:59 a.m.]

Supplemental Notice to WSR 92-09-137.

Continuance of WSR 92-09-137.

Title of Rule: Commercial fishing rules.

Purpose: Provide small business economic impact statement and continue for later hearing proposals that affect small businesses: WAC 220-16-040, 220-16-046, 220-47-302, 220-47-304, 220-47-307, 220-47-411, 220-47-412, and 220-47-500.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: See WSR 92-09-137 for Summary, Reasons, Explanation and Changes to Existing Rules.

Reasons Supporting Proposal: See WSR 92-09-137.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, P.O. Box 43147, Olympia, WA 98504, 586-2429; Implementation: Gene DiDonato, P.O. Box 43149, Olympia, WA 98504, 753-5012; and Enforcement: Dayna Matthews, P.O. Box 43147, Olympia, WA 98504, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 92-09-137.

Proposal Changes the Following Existing Rules: See WSR 92-09-137.

The following WAC proposals have no effect, WAC 220-47-301, 220-47-311, 220-47-319, and 220-47-401. The remaining proposals in WSR 92-09-137 may have an effect, and a small business economic impact statement is shown below.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry be reviewed and altered to minimize their impact on small business. This statement examines the impact on small business of the proposed rules in chapters 220-16 and 220-47 WAC which implement and regulate all-citizen commercial gill net salmon fishing in Puget Sound. A small business economic impact statement is required for proposed changes to the following WAC sections: WAC 220-16-040, 220-16-046, 220-47-302, 220-47-304, 220-47-307, 220-47-411, 220-47-412, and 220-47-500.

These proposed rule changes were originally described at WSR 92-09-137. They are being filed again as a supplemental notice related to compliance with the act.

CHAPTER 220-16 WAC

WAC 220-16-040 Definitions—Drift gill net—Drift net, this proposed rule changes the name from "gill net" to "drift gill net" in order to distinguish skiff gill net.

WAC 220-16-046 Definitions—Skiff gill net, this proposed rule defines skiff gill net as a unique gear type.

The department has considered whether the rule changes proposed in this chapter are subject to the Regulatory Fairness Act and has determined that they are not for the following reasons: The rules do not have an economic impact; and the rules will not affect industry.

The department therefore claims exemption from further compliance with the act regarding these rule change proposals.

CHAPTER 220-47 WAC

WAC 220-16-302 Puget Sound—Lawful gear—Gill net, the department has determined that this rule is subject to the Regulatory Fairness Act because: The rule will have an economic impact; and the rule will affect industry.

Compliance requirements, this proposed rule change would: Require drift gill nets to be reduced in length from 1800 ft to 1200 ft; impose a depth restriction of given number of meshes (the exact number of meshes will be determined after public testimony) on drift gill nets; and impose a requirement that gill nets have fluorescent colored corks, along the corkline in 30-ft intervals.

If businesses in this affected class do not already own gear that is consistent with the proposed rule, regarding maximum net length or depth, then compliance with the rules will require modification of existing gear. An unknown proportion of businesses in this class would be required to modify existing gear.

Professional services needed, professional services may be employed to accomplish the modification if required, but are not necessary.

Costs of compliance, the department has determined costs to comply with this regulation based on informal market survey. Cost of modification would be incurred only once; in subsequent years nets would be purchased in the prescribed size. It is estimated that one gill net may be used for two to four years, so the cost may be amortized over that period. An unknown proportion of the businesses already own nets of the proposed dimensions, and those businesses would incur zero cost or impact from this rule's implementation regarding net size modifications. Businesses may realize significant savings over the costs shown below by performing the labor themselves.

| | |
|---|---|
| Estimated Total Cost to Comply with Length Restriction: | |
| Number of Hours of Labor: | 1 hour |
| Labor Cost in a Net Fabrication/ Modification Shop: | $20.00 |
| Total Cost to Comply (1 hr X $20/hr): | $20.00 |
| Estimated Total Cost to Comply with Depth Restriction: | |
| Number of Hours of Labor (1200-ft long net): | 16 hours |
| Labor Cost in a Net Fabrication/ Modification Shop: | $20.00 |
| Total Cost to Comply (16 hr X $20/hr): | $320.00 |
| Estimated Total Cost to Comply with Contrasting Colored Corks: | |
| Number of Hours of Labor (1200-ft long net): | 26 hours |
| Labor Cost in a Net Fabrication/ Modification Shop: | $20.00 |
| Cost of 40 Fluorescent Colored Corks @ $1.10/Cork: | $44.00 |
| Total Cost to Comply [(26 hr X $20/hr] + $44): | $564.00 |

Alternatively, the business could spray existing corks in 30-ft intervals with fluorescent colored paint. In this case the expense would be negligible.

The department has considered whether the rule changes proposed in the following sections of this chapter are subject to the Regulatory Fairness Act and has determined that they are not for the following reasons: The rules do not have an economic impact; and the rules will not affect industry.

WAC 220-47-304 Puget Sound—All citizen salmon species seasons, this proposed rule makes adjustments to the Puget Sound salmon management periods for the 1992 calendar year.

WAC 220-47-307 Closed areas—Puget Sound salmon, this proposed rule change would establish five separate site closures.

WAC 220-47-411 Gill net—Open periods, this proposed rule largely conforms with decisions of the Pacific Fisheries Management Council, a federal management entity.

WAC 220-47-412 Drift gill net and skiff gill net—Minimum mesh sizes, this proposed rule adds "skiff gill net" to the gill net minimum mesh sizes for consistency.

WAC 220-47-500 Limited participation salmon net fisheries, this proposed rule allows only one listing per

license in the limited participation fishery register, to ensure equal representation for all commercial fishing vessels. This rule would also provide additional flexibility for limited participation fisheries, to be used for specific management objectives.

Hearing Location: Small Conference Room, General Administration Building, 210 11th Street, Olympia, WA 98504, on June 24, 1992, at 10:00 a.m.

Submit Written Comments to: Fisheries Hearings Officer, P.O. Box 43147, Olympia, WA 98504-3147, by June 22, 1992.

Date of Intended Adoption: June 30, 1992.

May 20, 1992
Nancy L. Nelson
for Joseph R. Blum
Director

## KEY TO TABLE

**Symbols:**

AMD = Amendment of existing section
A/R = Amending and recodifying a section
DECOD = Decodification of an existing section
NEW = New section not previously codified
OBJEC = Notice of objection by Joint Administrative Rules Review Committee
PREP = Preproposal comments
RE-AD = Readoption of existing section
RECOD = Recodification of previously codified section
REP = Repeal of existing section
RESCIND = Rescind previous emergency rule
REVIEW = Review of previously adopted rule

**Suffixes:**

-P = Proposed action
-C = Continuance of previous proposal
-E = Emergency action
-S = Supplemental notice
-W = Withdrawal of proposed action
No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**WAC #** shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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| 16-316-235 | AMD-P | 92-09-150 |
| 16-316-240 | AMD-P | 92-09-150 |
| 16-316-245 | AMD-P | 92-09-150 |
| 16-316-250 | AMD-P | 92-09-150 |
| 16-316-266 | NEW-E | 92-06-048 |
| 16-316-266 | NEW-P | 92-09-075 |
| 16-316-270 | AMD-E | 92-06-048 |
| 16-316-270 | AMD-P | 92-09-075 |
| 16-316-280 | AMD-E | 92-06-048 |
| 16-316-280 | AMD-P | 92-09-075 |
| 16-316-285 | AMD-E | 92-06-048 |
| 16-316-285 | AMD-P | 92-09-075 |
| 16-316-290 | AMD-E | 92-06-048 |
| 16-316-290 | AMD-P | 92-09-075 |
| 16-316-315 | AMD-P | 92-09-150 |
| 16-316-327 | AMD-P | 92-09-150 |
| 16-316-340 | AMD-P | 92-09-150 |
| 16-316-350 | AMD-P | 92-09-150 |
| 16-316-355 | AMD-P | 92-09-150 |
| 16-316-360 | AMD-P | 92-09-150 |
| 16-316-370 | AMD-P | 92-09-150 |
| 16-316-470 | AMD-P | 92-09-150 |
| 16-316-474 | AMD-P | 92-09-150 |
| 16-316-525 | AMD-P | 92-09-150 |
| 16-316-622 | AMD-P | 92-09-150 |
| 16-316-715 | AMD-P | 92-09-150 |
| 16-316-717 | AMD-P | 92-09-150 |
| 16-316-719 | AMD-P | 92-09-150 |
| 16-316-727 | AMD-P | 92-09-150 |
| 16-316-800 | AMD-P | 92-09-150 |
| 16-316-810 | AMD-P | 92-09-150 |
| 16-316-815 | AMD-P | 92-09-150 |
| 16-316-820 | AMD-P | 92-09-150 |
| 16-316-830 | AMD-P | 92-09-150 |
| 16-316-832 | AMD-P | 92-09-150 |
| 16-316-833 | AMD-P | 92-09-150 |
| 16-316-980 | AMD-P | 92-09-150 |
| 16-316-995 | AMD-P | 92-09-150 |
| 16-316-997 | AMD-P | 92-09-150 |
| 16-400-210 | AMD-E | 92-04-032 |
| 16-400-210 | AMD | 92-06-022 |
| 16-401-040 | AMD-P | 92-10-040 |
| 16-403-143 | NEW-P | 92-11-074 |
| 16-403-160 | AMD-P | 92-11-074 |
| 16-403-190 | AMD-P | 92-11-074 |
| 16-403-200 | AMD-P | 92-11-074 |
| 16-403-220 | AMD-P | 92-11-074 |
| 16-403-240 | AMD-P | 92-11-074 |
| 16-436-100 | AMD-P | 92-08-106 |
| 16-436-100 | AMD | 92-11-076 |
| 16-436-110 | AMD-P | 92-08-106 |
| 16-436-110 | AMD | 92-11-076 |
| 16-436-130 | REP-P | 92-08-106 |
| 16-436-130 | REP | 92-11-076 |
| 16-436-140 | AMD-P | 92-08-106 |
| 16-436-140 | AMD | 92-11-076 |
| 16-436-150 | AMD-P | 92-08-106 |
| 16-436-150 | AMD | 92-11-076 |
| 16-436-166 | NEW-P | 92-08-106 |
| 16-436-166 | NEW | 92-11-076 |
| 16-436-170 | REP-P | 92-08-106 |
| 16-436-170 | REP | 92-11-076 |
| 16-436-185 | AMD-P | 92-08-106 |
| 16-436-185 | AMD | 92-11-076 |
| 16-436-186 | NEW-P | 92-08-106 |
| 16-436-186 | NEW | 92-11-076 |
| 16-436-187 | NEW-P | 92-08-106 |
| 16-436-187 | NEW | 92-11-076 |
| 16-436-190 | AMD-P | 92-08-106 |
| 16-436-190 | AMD | 92-11-076 |
| 16-436-200 | AMD-P | 92-08-106 |
| 16-436-200 | AMD | 92-11-076 |
| 16-436-210 | AMD-P | 92-08-106 |
| 16-436-210 | AMD | 92-11-076 |
| 16-436-220 | AMD-P | 92-08-106 |
| 16-436-220 | AMD | 92-11-076 |
| 16-436-225 | NEW-P | 92-08-106 |
| 16-436-225 | NEW | 92-11-076 |
| 16-461 | AMD | 92-06-085 |
| 16-461-006 | NEW | 92-06-085 |
| 16-461-010 | AMD | 92-06-085 |
| 16-469-010 | REP-P | 92-09-074 |
| 16-469-020 | REP-P | 92-09-074 |
| 16-469-030 | REP-P | 92-09-074 |
| 16-469-040 | REP-P | 92-09-074 |
| 16-469-050 | REP-P | 92-09-074 |
| 16-469-060 | REP-P | 92-09-074 |
| 16-470-500 | REP | 92-06-024 |
| 16-470-510 | REP | 92-06-024 |
| 16-470-520 | REP | 92-06-024 |
| 16-470-530 | REP | 92-06-024 |
| 16-470-600 | REP | 92-06-023 |
| 16-470-605 | REP | 92-06-023 |
| 16-470-610 | REP | 92-06-023 |
| 16-470-615 | REP | 92-06-023 |
| 16-470-620 | REP | 92-06-023 |
| 16-470-625 | REP | 92-06-023 |
| 16-470-630 | REP | 92-06-023 |
| 16-470-635 | REP | 92-06-023 |
| 16-470-900 | NEW-P | 92-03-104 |
| 16-470-900 | NEW | 92-07-023 |
| 16-470-905 | NEW-P | 92-03-104 |
| 16-470-905 | NEW | 92-07-023 |
| 16-470-910 | NEW-P | 92-03-104 |
| 16-470-910 | NEW | 92-07-023 |
| 16-470-915 | NEW-P | 92-03-104 |
| 16-470-915 | NEW | 92-07-023 |
| 16-470-920 | NEW-P | 92-03-104 |
| 16-470-920 | NEW | 92-07-023 |
| 16-494-010 | AMD-E | 92-06-050 |
| 16-494-010 | AMD-P | 92-09-075 |
| 16-494-013 | AMD-E | 92-06-050 |
| 16-494-013 | AMD-P | 92-09-075 |
| 16-494-046 | AMD-E | 92-06-050 |
| 16-494-046 | AMD-P | 92-09-075 |
| 16-494-064 | AMD-E | 92-06-050 |
| 16-494-064 | AMD-P | 92-09-075 |
| 16-494-100 | NEW-E | 92-06-049 |
| 16-494-100 | NEW-P | 92-09-075 |
| 16-494-110 | NEW-E | 92-06-049 |
| 16-494-110 | NEW-P | 92-09-075 |
| 16-494-120 | NEW-E | 92-06-049 |
| 16-494-120 | NEW-P | 92-09-075 |
| 16-494-130 | NEW-E | 92-06-049 |
| 16-494-130 | NEW-P | 92-09-075 |
| 16-494-140 | NEW-E | 92-06-049 |
| 16-494-140 | NEW-P | 92-09-075 |
| 16-494-150 | NEW-E | 92-06-049 |
| 16-494-150 | NEW-P | 92-09-075 |
| 16-494-160 | NEW-E | 92-06-049 |
| 16-494-160 | NEW-P | 92-09-075 |
| 16-494-170 | NEW-E | 92-06-049 |
| 16-494-170 | NEW-P | 92-09-075 |
| 16-495-004 | AMD-P | 92-09-150 |
| 16-495-010 | AMD-P | 92-09-150 |
| 16-495-050 | AMD-P | 92-09-150 |
| 16-495-110 | AMD-P | 92-09-150 |
| 16-532-010 | AMD-P | 92-06-071 |
| 16-532-010 | AMD | 92-09-068 |
| 16-532-020 | AMD-P | 92-06-071 |
| 16-532-020 | AMD | 92-09-068 |
| 16-532-030 | AMD-P | 92-06-071 |
| 16-532-030 | AMD | 92-09-068 |
| 16-532-065 | NEW-P | 92-06-071 |
| 16-532-065 | NEW | 92-09-068 |
| 16-532-110 | AMD-P | 92-06-071 |
| 16-532-110 | AMD | 92-09-068 |
| 16-555-020 | AMD-P | 92-05-071 |
| 16-555-040 | AMD-P | 92-05-071 |
| 16-561-020 | AMD-P | 92-05-070 |
| 16-570-030 | AMD-P | 92-08-055 |
| 16-570-030 | AMD | 92-11-013 |
| 16-604-010 | AMD | 92-06-013 |
| 16-604-015 | NEW | 92-06-013 |
| 16-622-050 | AMD-P | 92-03-069 |
| 16-622-050 | AMD-E | 92-03-070 |
| 16-622-050 | AMD | 92-07-030 |
| 16-622-060 | NEW-P | 92-03-069 |
| 16-622-060 | NEW-E | 92-03-070 |
| 16-622-060 | NEW | 92-07-030 |
| 16-752-500 | NEW-P | 92-03-105 |
| 16-752-500 | NEW | 92-07-024 |
| 16-752-505 | NEW-P | 92-03-105 |
| 16-752-505 | NEW | 92-07-024 |

# Table of WAC Sections Affected

| WAC # | | WSR # |
|---|---|---|
| 16-752-507 | NEW | 92-07-024 |
| 16-752-510 | NEW-P | 92-03-105 |
| 16-752-510 | NEW | 92-07-024 |
| 16-752-515 | NEW-P | 92-03-105 |
| 16-752-515 | NEW | 92-07-024 |
| 16-752-520 | NEW-P | 92-03-105 |
| 16-752-520 | NEW | 92-07-024 |
| 16-752-525 | NEW-P | 92-03-105 |
| 16-752-525 | NEW | 92-07-024 |
| 16-752-600 | NEW-P | 92-03-106 |
| 16-752-600 | NEW | 92-07-025 |
| 16-752-605 | NEW | 92-07-025 |
| 16-752-610 | NEW-P | 92-03-106 |
| 16-752-610 | NEW | 92-07-025 |
| 16-752-620 | NEW-P | 92-03-106 |
| 16-752-620 | NEW | 92-07-025 |
| 16-752-630 | NEW-P | 92-03-106 |
| 16-752-630 | NEW | 92-07-025 |
| 16-752-640 | NEW-P | 92-03-106 |
| 16-752-640 | NEW | 92-07-025 |
| 16-752-650 | NEW-P | 92-03-106 |
| 16-752-650 | NEW | 92-07-025 |
| 16-752-660 | NEW-P | 92-03-106 |
| 16-752-660 | NEW | 92-07-025 |
| 44-10-010 | AMD | 92-11-037 |
| 44-10-020 | NEW-W | 92-11-036 |
| 44-10-060 | AMD | 92-11-037 |
| 44-10-205 | NEW-W | 92-11-036 |
| 50-12-116 | AMD | 92-04-027 |
| 50-14-020 | NEW | 92-06-041 |
| 50-14-030 | NEW | 92-06-041 |
| 50-14-040 | NEW | 92-06-041 |
| 50-14-050 | NEW | 92-06-041 |
| 50-14-060 | NEW | 92-06-041 |
| 50-14-070 | NEW | 92-06-041 |
| 50-14-080 | NEW | 92-06-041 |
| 50-14-090 | NEW | 92-06-041 |
| 50-14-100 | NEW | 92-06-041 |
| 50-14-110 | NEW | 92-06-041 |
| 50-14-120 | NEW | 92-06-041 |
| 50-14-130 | NEW | 92-06-041 |
| 50-14-140 | NEW | 92-06-041 |
| 50-30-010 | NEW | 92-02-105 |
| 50-30-020 | NEW | 92-02-105 |
| 50-30-030 | NEW | 92-02-105 |
| 50-30-040 | NEW | 92-02-105 |
| 50-30-050 | NEW | 92-02-105 |
| 50-30-060 | NEW | 92-02-105 |
| 50-30-070 | NEW | 92-02-105 |
| 50-30-080 | NEW | 92-02-105 |
| 50-30-090 | NEW | 92-02-105 |
| 50-30-100 | NEW | 92-02-105 |
| 50-30-110 | NEW | 92-02-105 |
| 51-20-0419 | NEW-W | 92-09-110 |
| 51-20-0504 | NEW-W | 92-09-110 |
| 51-20-0516 | NEW-W | 92-09-110 |
| 51-20-0554 | NEW-W | 92-09-110 |
| 51-20-0555 | NEW-W | 92-09-110 |
| 51-20-0610 | NEW-W | 92-09-110 |
| 51-20-1216 | NEW-W | 92-09-110 |
| 51-20-1251 | NEW-W | 92-09-110 |
| 51-20-3200 | NEW-W | 92-09-110 |
| 51-20-3207 | NEW-W | 92-09-110 |
| 51-20-3305 | NEW-W | 92-09-110 |
| 51-20-91200 | NEW-W | 92-09-110 |
| 51-20-91223 | NEW-W | 92-09-110 |
| 51-20-91224 | NEW-W | 92-09-110 |
| 51-20-91225 | NEW-W | 92-09-110 |
| 51-20-91226 | NEW-W | 92-09-110 |
| 51-20-91227 | NEW-W | 92-09-110 |
| 51-20-91228 | NEW-W | 92-09-110 |
| 51-20-91229 | NEW-W | 92-09-110 |
| 51-20-91230 | NEW-W | 92-09-110 |
| 51-20-91231 | NEW-W | 92-09-110 |
| 51-20-91232 | NEW-W | 92-09-110 |
| 51-20-91233 | NEW-W | 92-09-110 |
| 51-20-91234 | NEW-W | 92-09-110 |
| 51-20-93121 | NEW-W | 92-05-086 |
| 51-24-79809 | NEW-P | 92-09-156 |
| 51-24-79901 | NEW-P | 92-09-156 |
| 51-24-99300 | NEW-W | 92-05-087 |
| 51-24-99350 | NEW-W | 92-05-087 |
| 51-24-99351 | NEW-W | 92-05-087 |
| 51-24-99352 | NEW-W | 92-05-087 |
| 55-01-010 | AMD-P | 92-09-157 |
| 55-01-020 | AMD-P | 92-09-157 |
| 55-01-030 | AMD-P | 92-09-157 |
| 55-01-050 | AMD-P | 92-09-157 |
| 55-01-060 | AMD-P | 92-09-157 |
| 67-25-446 | AMD-P | 92-06-036 |
| 67-25-446 | AMD | 92-09-090 |
| 67-35-030 | AMD-P | 92-07-011 |
| 67-35-030 | AMD | 92-10-024 |
| 67-35-060 | AMD-P | 92-07-011 |
| 67-35-060 | AMD | 92-10-024 |
| 67-35-070 | AMD-P | 92-07-011 |
| 67-35-070 | AMD-E | 92-07-012 |
| 67-35-070 | AMD | 92-10-024 |
| 67-35-080 | REP-P | 92-07-011 |
| 67-35-080 | REP-E | 92-07-012 |
| 67-35-080 | REP | 92-10-024 |
| 67-75-040 | AMD-P | 92-06-036 |
| 67-75-040 | AMD | 92-09-090 |
| 67-75-042 | NEW-P | 92-06-036 |
| 67-75-042 | NEW | 92-09-090 |
| 67-75-044 | NEW-P | 92-06-036 |
| 67-75-044 | NEW | 92-09-090 |
| 67-75-070 | AMD-P | 92-06-036 |
| 67-75-070 | AMD | 92-09-090 |
| 67-75-075 | AMD-P | 92-06-036 |
| 67-75-075 | AMD | 92-09-090 |
| 131-08-005 | AMD-P | 92-09-138 |
| 131-08-007 | AMD-P | 92-09-138 |
| 131-08-008 | AMD-P | 92-09-138 |
| 131-16-060 | AMD-P | 92-09-139 |
| 131-16-062 | AMD-P | 92-09-139 |
| 131-28-025 | AMD-E | 92-10-033 |
| 131-28-025 | AMD-P | 92-10-042 |
| 131-28-026 | AMD-E | 92-10-033 |
| 131-28-026 | AMD-P | 92-10-042 |
| 131-28-028 | NEW-E | 92-10-033 |
| 131-28-028 | NEW-P | 92-10-042 |
| 131-32-040 | AMD-P | 92-09-140 |
| 132B-104 | NEW-C | 92-07-064 |
| 132B-104-010 | NEW | 92-08-043 |
| 132B-108 | NEW-C | 92-07-063 |
| 132B-108-010 | NEW | 92-09-041 |
| 132B-108-020 | NEW | 92-09-041 |
| 132B-108-030 | NEW | 92-09-041 |
| 132B-108-040 | NEW | 92-09-041 |
| 132B-108-050 | NEW | 92-09-041 |
| 132B-108-060 | NEW | 92-09-041 |
| 132B-108-070 | NEW | 92-09-041 |
| 132B-108-080 | NEW | 92-09-041 |
| 132B-130 | NEW-C | 92-07-065 |
| 132B-130-010 | NEW | 92-08-044 |
| 132B-130-020 | NEW | 92-08-044 |
| 132B-131 | NEW-C | 92-07-065 |
| 132B-131-010 | NEW | 92-08-044 |
| 132B-132 | NEW-C | 92-07-065 |
| 132B-132-010 | NEW | 92-08-044 |
| 132B-133 | NEW-C | 92-07-064 |
| 132B-133-010 | NEW | 92-08-043 |
| 132B-133-020 | NEW | 92-08-043 |
| 132G-152-040 | NEW-P | 92-04-055 |
| 132G-152-040 | NEW | 92-08-040 |
| 132H-105-010 | REP-E | 92-07-071 |
| 132H-105-010 | REP-P | 92-09-057 |
| 132H-105-020 | REP-E | 92-07-071 |
| 132H-105-020 | REP-P | 92-09-057 |
| 132H-105-030 | REP-E | 92-07-071 |
| 132H-105-030 | REP-P | 92-09-057 |
| 132H-105-040 | REP-E | 92-07-071 |
| 132H-105-040 | REP-P | 92-09-057 |
| 132H-105-050 | REP-E | 92-07-071 |
| 132H-105-050 | REP-P | 92-09-057 |
| 132H-105-060 | REP-E | 92-07-071 |
| 132H-105-060 | REP-P | 92-09-057 |
| 132H-105-070 | REP-E | 92-07-071 |
| 132H-105-070 | REP-P | 92-09-057 |
| 132H-105-090 | REP-E | 92-07-071 |
| 132H-105-090 | REP-P | 92-09-057 |
| 132H-105-100 | REP-E | 92-07-071 |
| 132H-105-100 | REP-P | 92-09-057 |
| 132H-105-110 | REP-E | 92-07-071 |
| 132H-105-110 | REP-P | 92-09-057 |
| 132H-105-120 | REP-E | 92-07-071 |
| 132H-105-120 | REP-P | 92-09-057 |
| 132H-105-130 | REP-E | 92-07-071 |
| 132H-105-130 | REP-P | 92-09-057 |
| 132H-105-140 | REP-E | 92-07-071 |
| 132H-105-140 | REP-P | 92-09-057 |
| 132H-105-150 | REP-E | 92-07-071 |
| 132H-105-150 | REP-P | 92-09-057 |
| 132H-105-160 | REP-E | 92-07-071 |
| 132H-105-160 | REP-P | 92-09-057 |
| 132H-105-170 | REP-E | 92-07-071 |
| 132H-105-170 | REP-P | 92-09-057 |
| 132H-106-010 | NEW-E | 92-07-071 |
| 132H-106-010 | NEW-P | 92-09-057 |
| 132H-106-020 | NEW-E | 92-07-071 |
| 132H-106-020 | NEW-P | 92-09-057 |
| 132H-106-030 | NEW-E | 92-07-071 |
| 132H-106-030 | NEW-P | 92-09-057 |
| 132H-106-040 | NEW-E | 92-07-071 |
| 132H-106-040 | NEW-P | 92-09-057 |
| 132H-106-050 | NEW-E | 92-07-071 |
| 132H-106-050 | NEW-P | 92-09-057 |
| 132H-106-060 | NEW-E | 92-07-071 |
| 132H-106-060 | NEW-P | 92-09-057 |
| 132H-112-003 | REP-E | 92-07-074 |
| 132H-112-003 | REP-P | 92-09-058 |
| 132H-112-006 | REP-E | 92-07-074 |
| 132H-112-006 | REP-P | 92-09-058 |
| 132H-112-009 | REP-E | 92-07-074 |
| 132H-112-009 | REP-P | 92-09-058 |
| 132H-112-012 | REP-E | 92-07-074 |
| 132H-112-012 | REP-P | 92-09-058 |
| 132H-112-015 | REP-E | 92-07-074 |
| 132H-112-015 | REP-P | 92-09-058 |
| 132H-112-018 | REP-E | 92-07-074 |
| 132H-112-018 | REP-P | 92-09-058 |
| 132H-112-021 | REP-E | 92-07-074 |
| 132H-112-021 | REP-P | 92-09-058 |
| 132H-112-024 | REP-E | 92-07-074 |
| 132H-112-024 | REP-P | 92-09-058 |
| 132H-112-027 | REP-E | 92-07-074 |
| 132H-112-027 | REP-P | 92-09-058 |
| 132H-112-030 | REP-E | 92-07-074 |
| 132H-112-030 | REP-P | 92-09-058 |
| 132H-112-033 | REP-E | 92-07-074 |
| 132H-112-033 | REP-P | 92-09-058 |
| 132H-112-036 | REP-E | 92-07-074 |
| 132H-112-036 | REP-P | 92-09-058 |
| 132H-112-039 | REP-E | 92-07-074 |
| 132H-112-039 | REP-P | 92-09-058 |
| 132H-112-042 | REP-E | 92-07-074 |
| 132H-112-042 | REP-P | 92-09-058 |
| 132H-112-045 | REP-E | 92-07-074 |
| 132H-112-045 | REP-P | 92-09-058 |
| 132H-112-048 | REP-E | 92-07-074 |
| 132H-112-048 | REP-P | 92-09-058 |
| 132H-112-051 | REP-E | 92-07-074 |
| 132H-112-051 | REP-P | 92-09-058 |
| 132H-112-054 | REP-E | 92-07-074 |
| 132H-112-054 | REP-P | 92-09-058 |
| 132H-112-057 | REP-E | 92-07-074 |
| 132H-112-057 | REP-P | 92-09-058 |
| 132H-112-060 | REP-E | 92-07-074 |
| 132H-112-060 | REP-P | 92-09-058 |
| 132H-112-063 | REP-E | 92-07-074 |

| WAC # | | WSR # |
|---|---|---|
| 132H-112-063 | REP-P | 92-09-058 |
| 132H-116-300 | AMD-P | 92-09-062 |
| 132H-116-300 | AMD-E | 92-09-063 |
| 132H-116-310 | AMD-P | 92-09-062 |
| 132H-116-310 | AMD-E | 92-09-063 |
| 132H-116-315 | NEW-P | 92-09-062 |
| 132H-116-315 | NEW-E | 92-09-063 |
| 132H-116-320 | AMD-P | 92-09-062 |
| 132H-116-320 | AMD-E | 92-09-063 |
| 132H-116-330 | AMD-P | 92-09-062 |
| 132H-116-330 | AMD-E | 92-09-063 |
| 132H-116-340 | REP-P | 92-09-062 |
| 132H-116-340 | REP-E | 92-09-063 |
| 132H-116-350 | AMD-P | 92-09-062 |
| 132H-116-350 | AMD-E | 92-09-063 |
| 132H-116-351 | NEW-P | 92-09-062 |
| 132H-116-351 | NEW-E | 92-09-063 |
| 132H-116-352 | NEW-P | 92-09-062 |
| 132H-116-352 | NEW-E | 92-09-063 |
| 132H-116-353 | NEW-P | 92-09-062 |
| 132H-116-353 | NEW-E | 92-09-063 |
| 132H-116-354 | NEW-P | 92-09-062 |
| 132H-116-354 | NEW-E | 92-09-063 |
| 132H-116-355 | NEW-P | 92-09-062 |
| 132H-116-355 | NEW-E | 92-09-063 |
| 132H-116-356 | NEW-P | 92-09-062 |
| 132H-116-356 | NEW-E | 92-09-063 |
| 132H-116-357 | NEW-P | 92-09-062 |
| 132H-116-357 | NEW-E | 92-09-063 |
| 132H-116-360 | AMD-P | 92-09-062 |
| 132H-116-360 | AMD-E | 92-09-063 |
| 132H-116-370 | REP-P | 92-09-062 |
| 132H-116-370 | REP-E | 92-09-063 |
| 132H-116-380 | REP-P | 92-09-062 |
| 132H-116-380 | REP-E | 92-09-063 |
| 132H-116-390 | REP-P | 92-09-062 |
| 132H-116-390 | REP-E | 92-09-063 |
| 132H-116-400 | REP-P | 92-09-062 |
| 132H-116-400 | REP-E | 92-09-063 |
| 132H-116-405 | NEW-P | 92-09-062 |
| 132H-116-405 | NEW-E | 92-09-063 |
| 132H-116-410 | AMD-P | 92-09-062 |
| 132H-116-410 | AMD-E | 92-09-063 |
| 132H-116-415 | NEW-P | 92-09-062 |
| 132H-116-415 | NEW-E | 92-09-063 |
| 132H-116-420 | REP-P | 92-09-062 |
| 132H-116-420 | REP-E | 92-09-063 |
| 132H-116-430 | AMD-P | 92-09-062 |
| 132H-116-430 | AMD-E | 92-09-063 |
| 132H-116-431 | NEW-P | 92-09-062 |
| 132H-116-431 | NEW-E | 92-09-063 |
| 132H-116-432 | NEW-P | 92-09-062 |
| 132H-116-432 | NEW-E | 92-09-063 |
| 132H-116-433 | NEW-P | 92-09-062 |
| 132H-116-433 | NEW-E | 92-09-063 |
| 132H-116-440 | REP-P | 92-09-062 |
| 132H-116-440 | REP-E | 92-09-063 |
| 132H-116-450 | REP-P | 92-09-062 |
| 132H-116-450 | REP-E | 92-09-063 |
| 132H-116-470 | AMD-P | 92-09-062 |
| 132H-116-470 | AMD-E | 92-09-063 |
| 132H-116-480 | REP-P | 92-09-062 |
| 132H-116-480 | REP-E | 92-09-063 |
| 132H-116-490 | REP-P | 92-09-062 |
| 132H-116-490 | REP-E | 92-09-063 |
| 132H-116-500 | REP-P | 92-09-062 |
| 132H-116-500 | REP-E | 92-09-063 |
| 132H-116-510 | REP-P | 92-09-062 |
| 132H-116-510 | REP-E | 92-09-063 |
| 132H-116-520 | REP-P | 92-09-062 |
| 132H-116-520 | REP-E | 92-09-063 |
| 132H-116-530 | REP-P | 92-09-062 |
| 132H-116-530 | REP-E | 92-09-063 |
| 132H-116-540 | REP-P | 92-09-062 |
| 132H-116-540 | REP-E | 92-09-063 |
| 132H-116-542 | REP-P | 92-09-062 |
| 132H-116-542 | REP-E | 92-09-063 |
| 132H-116-550 | REP-P | 92-09-062 |
| 132H-116-550 | REP-E | 92-09-063 |
| 132H-116-560 | REP-P | 92-09-062 |
| 132H-116-560 | REP-E | 92-09-063 |
| 132H-116-570 | REP-P | 92-09-062 |
| 132H-116-570 | REP-E | 92-09-063 |
| 132H-116-580 | REP-P | 92-09-062 |
| 132H-116-580 | REP-E | 92-09-063 |
| 132H-116-590 | AMD-P | 92-09-062 |
| 132H-116-590 | AMD-E | 92-09-063 |
| 132H-116-600 | REP-P | 92-09-062 |
| 132H-116-600 | REP-E | 92-09-063 |
| 132H-116-610 | REP-P | 92-09-062 |
| 132H-116-610 | REP-E | 92-09-063 |
| 132H-116-615 | NEW-P | 92-09-062 |
| 132H-116-615 | NEW-E | 92-09-063 |
| 132H-116-620 | AMD-P | 92-09-062 |
| 132H-116-620 | AMD-E | 92-09-063 |
| 132H-116-630 | AMD-P | 92-09-062 |
| 132H-116-630 | AMD-E | 92-09-063 |
| 132H-116-640 | REP-P | 92-09-062 |
| 132H-116-640 | REP-E | 92-09-063 |
| 132H-116-650 | REP-P | 92-09-062 |
| 132H-116-650 | REP-E | 92-09-063 |
| 132H-116-655 | NEW-P | 92-09-062 |
| 132H-116-655 | NEW-E | 92-09-063 |
| 132H-116-660 | REP-P | 92-09-062 |
| 132H-116-660 | REP-E | 92-09-063 |
| 132H-116-670 | REP-P | 92-09-062 |
| 132H-116-670 | REP-E | 92-09-063 |
| 132H-116-680 | REP-P | 92-09-062 |
| 132H-116-680 | REP-E | 92-09-063 |
| 132H-116-690 | REP-P | 92-09-062 |
| 132H-116-690 | REP-E | 92-09-063 |
| 132H-116-700 | REP-P | 92-09-062 |
| 132H-116-700 | REP-E | 92-09-063 |
| 132H-116-710 | REP-P | 92-09-062 |
| 132H-116-710 | REP-E | 92-09-063 |
| 132H-116-720 | REP-P | 92-09-062 |
| 132H-116-720 | REP-E | 92-09-063 |
| 132H-116-730 | AMD-P | 92-09-062 |
| 132H-116-730 | AMD-E | 92-09-063 |
| 132H-116-740 | REP-P | 92-09-062 |
| 132H-116-740 | REP-E | 92-09-063 |
| 132H-116-750 | AMD-P | 92-09-062 |
| 132H-116-750 | AMD-E | 92-09-063 |
| 132H-116-760 | REP-P | 92-09-062 |
| 132H-116-760 | REP-E | 92-09-063 |
| 132H-116-765 | NEW-P | 92-09-062 |
| 132H-116-765 | NEW-E | 92-09-063 |
| 132H-116-770 | REP-P | 92-09-062 |
| 132H-116-770 | REP-E | 92-09-063 |
| 132H-116-780 | REP-P | 92-09-062 |
| 132H-116-780 | REP-E | 92-09-063 |
| 132H-116-791 | NEW-P | 92-09-062 |
| 132H-116-791 | NEW-E | 92-09-063 |
| 132H-116-810 | REP-P | 92-09-062 |
| 132H-116-810 | REP-E | 92-09-063 |
| 132H-128-010 | REP-E | 92-07-072 |
| 132H-128-010 | REP-P | 92-09-059 |
| 132H-128-020 | REP-E | 92-07-072 |
| 132H-128-020 | REP-P | 92-09-059 |
| 132H-128-030 | REP-E | 92-07-072 |
| 132H-128-030 | REP-P | 92-09-059 |
| 132H-128-040 | REP-E | 92-07-072 |
| 132H-128-040 | REP-P | 92-09-059 |
| 132H-148-010 | REP-E | 92-07-073 |
| 132H-148-010 | REP-P | 92-09-060 |
| 132H-148-110 | REP-E | 92-07-073 |
| 132H-148-110 | REP-P | 92-09-060 |
| 132I-104-010 | REP-P | 92-09-152 |
| 132I-104-030 | AMD-P | 92-09-152 |
| 132I-104-040 | AMD-P | 92-09-152 |
| 132I-104-050 | REP-P | 92-09-152 |
| 132I-104-060 | REP-P | 92-09-152 |
| 132I-104-065 | NEW-P | 92-09-152 |
| 132I-104-070 | REP-P | 92-09-152 |
| 132I-104-080 | AMD-P | 92-09-152 |
| 132I-104-090 | AMD-P | 92-09-152 |
| 132I-104-110 | AMD-P | 92-09-152 |
| 132I-108-010 | NEW-P | 92-09-152 |
| 132I-108-020 | NEW-P | 92-09-152 |
| 132I-108-030 | NEW-P | 92-09-152 |
| 132I-108-040 | NEW-P | 92-09-152 |
| 132I-108-050 | NEW-P | 92-09-152 |
| 132I-108-060 | NEW-P | 92-09-152 |
| 132I-108-070 | NEW-P | 92-09-152 |
| 132I-108-080 | NEW-P | 92-09-152 |
| 132I-108-090 | NEW-P | 92-09-152 |
| 132I-108-100 | NEW-P | 92-09-152 |
| 132I-108-110 | NEW-P | 92-09-152 |
| 132I-108-120 | NEW-P | 92-09-152 |
| 132I-112-010 | REP-P | 92-09-152 |
| 132I-112-020 | REP-P | 92-09-152 |
| 132I-112-030 | REP-P | 92-09-152 |
| 132I-112-040 | REP-P | 92-09-152 |
| 132I-112-050 | REP-P | 92-09-152 |
| 132I-112-060 | REP-P | 92-09-152 |
| 132I-112-070 | REP-P | 92-09-152 |
| 132I-112-080 | REP-P | 92-09-152 |
| 132I-112-090 | REP-P | 92-09-152 |
| 132I-112-100 | REP-P | 92-09-152 |
| 132I-112-110 | REP-P | 92-09-152 |
| 132I-112-120 | REP-P | 92-09-152 |
| 132I-112-130 | REP-P | 92-09-152 |
| 132I-112-140 | REP-P | 92-09-152 |
| 132I-112-150 | REP-P | 92-09-152 |
| 132I-112-160 | REP-P | 92-09-152 |
| 132I-112-170 | REP-P | 92-09-152 |
| 132I-112-180 | REP-P | 92-09-152 |
| 132I-112-190 | REP-P | 92-09-152 |
| 132I-112-200 | REP-P | 92-09-152 |
| 132I-112-210 | REP-P | 92-09-152 |
| 132I-112-220 | REP-P | 92-09-152 |
| 132I-112-230 | REP-P | 92-09-152 |
| 132I-112-240 | REP-P | 92-09-152 |
| 132I-116-010 | AMD-P | 92-09-152 |
| 132I-116-090 | AMD-P | 92-09-152 |
| 132I-116-270 | AMD-P | 92-09-152 |
| 132I-116-275 | NEW-P | 92-09-152 |
| 132I-116-280 | AMD-P | 92-09-152 |
| 132I-116-285 | NEW-P | 92-09-152 |
| 132I-116-300 | AMD-P | 92-09-152 |
| 132I-120-020 | AMD-P | 92-09-152 |
| 132I-120-100 | AMD-P | 92-09-152 |
| 132I-120-105 | NEW-P | 92-09-152 |
| 132I-120-300 | REP-P | 92-09-152 |
| 132I-120-305 | REP-P | 92-09-152 |
| 132I-120-310 | REP-P | 92-09-152 |
| 132I-120-320 | REP-P | 92-09-152 |
| 132I-120-325 | REP-P | 92-09-152 |
| 132I-120-335 | REP-P | 92-09-152 |
| 132I-120-345 | REP-P | 92-09-152 |
| 132I-120-400 | AMD-P | 92-09-152 |
| 132I-120-405 | REP-P | 92-09-152 |
| 132I-120-410 | AMD-P | 92-09-152 |
| 132I-120-415 | AMD-P | 92-09-152 |
| 132I-120-420 | REP-P | 92-09-152 |
| 132I-120-421 | NEW-P | 92-09-152 |
| 132I-120-424 | NEW-P | 92-09-152 |
| 132I-120-425 | REP-P | 92-09-152 |
| 132I-120-426 | NEW-P | 92-09-152 |
| 132I-120-427 | NEW-P | 92-09-152 |
| 132I-120-430 | REP-P | 92-09-152 |
| 132I-120-440 | REP-P | 92-09-152 |
| 132I-120-428 | NEW-P | 92-09-152 |
| 132I-120-429 | NEW-P | 92-09-152 |
| 132I-120-431 | NEW-P | 92-09-152 |
| 132I-120-432 | NEW-P | 92-09-152 |
| 132I-120-435 | AMD-P | 92-09-152 |
| 132I-120-441 | NEW-P | 92-09-152 |
| 132I-120-442 | NEW-P | 92-09-152 |
| 132I-120-443 | NEW-P | 92-09-152 |
| 132I-120-444 | NEW-P | 92-09-152 |

# Table of WAC Sections Affected

| WAC # | | WSR # |
|---|---|---|
| 132I-120-450 | NEW-P | 92-09-152 |
| 132I-120-510 | AMD-P | 92-09-152 |
| 132I-120-530 | NEW-P | 92-09-152 |
| 132I-122-010 | NEW-P | 92-09-152 |
| 132I-122-020 | NEW-P | 92-09-152 |
| 132I-122-030 | NEW-P | 92-09-152 |
| 132I-124-010 | NEW-P | 92-09-152 |
| 132I-128-011 | REP-P | 92-09-152 |
| 132I-128-021 | REP-P | 92-09-152 |
| 132I-128-031 | REP-P | 92-09-152 |
| 132I-128-041 | REP-P | 92-09-152 |
| 132I-128-051 | REP-P | 92-09-152 |
| 132I-128-061 | REP-P | 92-09-152 |
| 132I-128-071 | REP-P | 92-09-152 |
| 132I-128-081 | REP-P | 92-09-152 |
| 132I-128-091 | REP-P | 92-09-152 |
| 132I-128-101 | REP-P | 92-09-152 |
| 132I-128-110 | REP-P | 92-09-152 |
| 132I-128-120 | REP-P | 92-09-152 |
| 132I-128-130 | REP-P | 92-09-152 |
| 132I-128-140 | REP-P | 92-09-152 |
| 132I-128-150 | REP-P | 92-09-152 |
| 132I-128-160 | REP-P | 92-09-152 |
| 132I-128-170 | REP-P | 92-09-152 |
| 132I-128-180 | REP-P | 92-09-152 |
| 132I-128-190 | REP-P | 92-09-152 |
| 132I-128-200 | REP-P | 92-09-152 |
| 132I-128-310 | REP-P | 92-09-152 |
| 132I-128-320 | REP-P | 92-09-152 |
| 132I-128-330 | REP-P | 92-09-152 |
| 132I-128-340 | REP-P | 92-09-152 |
| 132I-128-350 | REP-P | 92-09-152 |
| 132I-128-360 | REP-P | 92-09-152 |
| 132I-128-800 | REP-P | 92-09-152 |
| 132I-128-810 | REP-P | 92-09-152 |
| 132I-128-820 | REP-P | 92-09-152 |
| 132I-130-010 | NEW-P | 92-09-152 |
| 132I-130-020 | NEW-P | 92-09-152 |
| 132I-131-010 | NEW-P | 92-09-152 |
| 132I-132-010 | NEW-P | 92-09-152 |
| 132I-133-010 | NEW-P | 92-09-152 |
| 132I-134-010 | NEW-P | 92-09-152 |
| 132I-136-100 | REP-P | 92-09-152 |
| 132I-136-110 | REP-P | 92-09-152 |
| 132I-136-120 | REP-P | 92-09-152 |
| 132I-136-130 | REP-P | 92-09-152 |
| 132I-136-140 | REP-P | 92-09-152 |
| 132I-136-150 | REP-P | 92-09-152 |
| 132I-136-160 | REP-P | 92-09-152 |
| 132I-136-170 | REP-P | 92-09-152 |
| 132I-140-010 | NEW-P | 92-09-152 |
| 132I-140-015 | NEW-P | 92-09-152 |
| 132I-140-016 | NEW-P | 92-09-152 |
| 132I-140-110 | NEW-P | 92-09-152 |
| 132I-140-120 | NEW-P | 92-09-152 |
| 132I-140-130 | NEW-P | 92-09-152 |
| 132I-140-134 | NEW-P | 92-09-152 |
| 132I-140-135 | NEW-P | 92-09-152 |
| 132I-140-140 | NEW-P | 92-09-152 |
| 132I-140-150 | NEW-P | 92-09-152 |
| 132I-140-160 | NEW-P | 92-09-152 |
| 132I-140-170 | NEW-P | 92-09-152 |
| 132I-160-010 | AMD-P | 92-09-152 |
| 132I-160-020 | AMD-P | 92-09-152 |
| 132I-160-025 | NEW-P | 92-09-152 |
| 132I-160-030 | REP-P | 92-09-152 |
| 132I-160-031 | NEW-P | 92-09-152 |
| 132I-160-032 | NEW-P | 92-09-152 |
| 132I-160-033 | NEW-P | 92-09-152 |
| 132I-160-035 | NEW-P | 92-09-152 |
| 132I-160-040 | REP-P | 92-09-152 |
| 132I-160-045 | NEW-P | 92-09-152 |
| 132I-160-047 | NEW-P | 92-09-152 |
| 132I-160-050 | REP-P | 92-09-152 |
| 132I-160-060 | AMD-P | 92-09-152 |
| 132I-160-065 | NEW-P | 92-09-152 |
| 132I-160-070 | REP-P | 92-09-152 |
| 132I-160-080 | REP-P | 92-09-152 |
| 132I-160-090 | AMD-P | 92-09-152 |
| 132I-160-100 | AMD-P | 92-09-152 |
| 132I-160-110 | AMD-P | 92-09-152 |
| 132I-160-120 | NEW-P | 92-09-152 |
| 132I-168-010 | REP-P | 92-09-152 |
| 132I-168-020 | REP-P | 92-09-152 |
| 132I-168-030 | REP-P | 92-09-152 |
| 132I-168-040 | REP-P | 92-09-152 |
| 132I-168-050 | REP-P | 92-09-152 |
| 132I-168-060 | REP-P | 92-09-152 |
| 132I-168-070 | REP-P | 92-09-152 |
| 132I-168-080 | REP-P | 92-09-152 |
| 132I-168-090 | REP-P | 92-09-152 |
| 132I-168-100 | REP-P | 92-09-152 |
| 132I-168-110 | REP-P | 92-09-152 |
| 132I-168A-020 | REP-P | 92-09-152 |
| 132I-168A-030 | AMD-P | 92-09-152 |
| 132I-168A-090 | AMD-P | 92-09-152 |
| 132I-168A-100 | AMD-P | 92-09-152 |
| 132I-276-010 | NEW-P | 92-09-152 |
| 132I-276-015 | NEW-P | 92-09-152 |
| 132I-276-020 | NEW-P | 92-09-152 |
| 132I-276-030 | NEW-P | 92-09-152 |
| 132I-276-045 | NEW-P | 92-09-152 |
| 132I-276-050 | NEW-P | 92-09-152 |
| 132I-276-060 | NEW-P | 92-09-152 |
| 132I-276-070 | NEW-P | 92-09-152 |
| 132I-276-080 | NEW-P | 92-09-152 |
| 132I-276-090 | NEW-P | 92-09-152 |
| 132I-276-100 | NEW-P | 92-09-152 |
| 132I-276-110 | NEW-P | 92-09-152 |
| 132I-280-010 | NEW-P | 92-09-152 |
| 132I-280-015 | NEW-P | 92-09-152 |
| 132I-280-020 | NEW-P | 92-09-152 |
| 132I-280-025 | NEW-P | 92-09-152 |
| 132I-280-030 | NEW-P | 92-09-152 |
| 132I-280-035 | NEW-P | 92-09-152 |
| 132I-280-040 | NEW-P | 92-09-152 |
| 132I-300-010 | NEW-P | 92-09-152 |
| 132I-300-020 | NEW-P | 92-09-152 |
| 132I-325-010 | NEW-P | 92-09-152 |
| 132I-400-010 | NEW-P | 92-09-152 |
| 132I-400-020 | NEW-P | 92-09-152 |
| 132I-400-030 | NEW-P | 92-09-152 |
| 132I-400-040 | NEW-P | 92-09-152 |
| 132I-500-010 | NEW-P | 92-09-152 |
| 132K-12-001 | REP | 92-03-031 |
| 132K-12-010 | REP | 92-03-031 |
| 132K-12-020 | REP | 92-03-031 |
| 132K-12-030 | REP | 92-03-031 |
| 132K-12-040 | REP | 92-03-031 |
| 132K-12-050 | REP | 92-03-031 |
| 132K-12-060 | REP | 92-03-031 |
| 132K-12-070 | REP | 92-03-031 |
| 132K-12-080 | REP | 92-03-031 |
| 132K-12-090 | REP | 92-03-031 |
| 132K-12-100 | REP | 92-03-031 |
| 132K-12-110 | REP | 92-03-031 |
| 132K-12-120 | REP | 92-03-031 |
| 132K-12-130 | REP | 92-03-031 |
| 132K-12-140 | REP | 92-03-031 |
| 132K-12-150 | REP | 92-03-031 |
| 132K-12-160 | REP | 92-03-031 |
| 132K-12-170 | REP | 92-03-031 |
| 132K-12-180 | REP | 92-03-031 |
| 132K-12-190 | REP | 92-03-031 |
| 132K-12-200 | REP | 92-03-031 |
| 132K-12-220 | REP | 92-03-031 |
| 132K-12-230 | REP | 92-03-031 |
| 132K-12-232 | REP | 92-03-031 |
| 132K-12-234 | REP | 92-03-031 |
| 132K-12-236 | REP | 92-03-031 |
| 132K-12-238 | REP | 92-03-031 |
| 132K-12-240 | REP | 92-03-031 |
| 132K-12-242 | REP | 92-03-031 |
| 132K-12-244 | REP | 92-03-031 |
| 132K-12-246 | REP | 92-03-031 |
| 132K-12-248 | REP | 92-03-031 |
| 132K-12-250 | REP | 92-03-031 |
| 132K-12-252 | REP | 92-03-031 |
| 132K-12-254 | REP | 92-03-031 |
| 132K-12-256 | REP | 92-03-031 |
| 132K-12-258 | REP | 92-03-031 |
| 132K-12-268 | REP | 92-03-031 |
| 132K-12-270 | REP | 92-03-031 |
| 132K-12-272 | REP | 92-03-031 |
| 132K-12-274 | REP | 92-03-031 |
| 132K-12-276 | REP | 92-03-031 |
| 132K-12-278 | REP | 92-03-031 |
| 132K-12-280 | REP | 92-03-031 |
| 132K-12-282 | REP | 92-03-031 |
| 132K-12-284 | REP | 92-03-031 |
| 132K-12-286 | REP | 92-03-031 |
| 132K-12-288 | REP | 92-03-031 |
| 132K-12-290 | REP | 92-03-031 |
| 132K-12-300 | REP | 92-03-031 |
| 132K-12-310 | REP | 92-03-031 |
| 132K-12-320 | REP | 92-03-031 |
| 132K-12-330 | REP | 92-03-031 |
| 132K-12-340 | REP | 92-03-031 |
| 132K-12-350 | REP | 92-03-031 |
| 132K-12-360 | REP | 92-03-031 |
| 132K-12-370 | REP | 92-03-031 |
| 132K-12-380 | REP | 92-03-031 |
| 132K-12-390 | REP | 92-03-031 |
| 132K-12-400 | REP | 92-03-031 |
| 132K-12-410 | REP | 92-03-031 |
| 132K-12-420 | REP | 92-03-031 |
| 132K-12-430 | REP | 92-03-031 |
| 132K-12-440 | REP | 92-03-031 |
| 132K-12-450 | REP | 92-03-031 |
| 132K-12-460 | REP | 92-03-031 |
| 132K-12-470 | REP | 92-03-031 |
| 132K-12-480 | REP | 92-03-031 |
| 132K-12-490 | REP | 92-03-031 |
| 132K-12-500 | REP | 92-03-031 |
| 132K-12-510 | REP | 92-03-031 |
| 132K-12-520 | REP | 92-03-031 |
| 132K-12-530 | REP | 92-03-031 |
| 132K-12-540 | REP | 92-03-031 |
| 132K-12-550 | REP | 92-03-031 |
| 132K-12-560 | REP | 92-03-031 |
| 132K-12-570 | REP | 92-03-031 |
| 132K-12-580 | REP | 92-03-031 |
| 132K-12-590 | REP | 92-03-031 |
| 132K-12-600 | REP | 92-03-031 |
| 132K-12-610 | REP | 92-03-031 |
| 132K-12-620 | REP | 92-03-031 |
| 132K-12-630 | REP | 92-03-031 |
| 132K-12-640 | REP | 92-03-031 |
| 132K-12-650 | REP | 92-03-031 |
| 132K-12-660 | REP | 92-03-031 |
| 132K-12-670 | REP | 92-03-031 |
| 132K-12-680 | REP | 92-03-031 |
| 132K-12-690 | REP | 92-03-031 |
| 132K-12-700 | REP | 92-03-031 |
| 132K-12-710 | REP | 92-03-031 |
| 132K-12-720 | REP | 92-03-031 |
| 132K-12-725 | REP | 92-03-031 |
| 132K-12-730 | REP | 92-03-031 |
| 132K-12-740 | REP | 92-03-031 |
| 132K-12-750 | REP | 92-03-031 |
| 132K-12-760 | REP | 92-03-031 |
| 132K-12-770 | REP | 92-03-031 |
| 132K-12-780 | REP | 92-03-031 |
| 132K-12-790 | REP | 92-03-031 |
| 132K-12-800 | REP | 92-03-031 |
| 132K-12-810 | REP | 92-03-031 |
| 132K-12-820 | REP | 92-03-031 |
| 132K-12-830 | REP | 92-03-031 |
| 132K-12-840 | REP | 92-03-031 |
| 132M-108-010 | NEW-P | 92-04-058 |
| 132M-108-010 | NEW | 92-09-005 |

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| 132M-108-030 | NEW-P | 92-04-058 |
| 132M-108-030 | NEW | 92-09-005 |
| 132M-108-040 | NEW-P | 92-04-058 |
| 132M-108-040 | NEW | 92-09-005 |
| 132M-108-050 | NEW-P | 92-04-058 |
| 132M-108-050 | NEW | 92-09-005 |
| 132M-108-060 | NEW-P | 92-04-058 |
| 132M-108-060 | NEW | 92-09-005 |
| 132M-108-070 | NEW-P | 92-04-058 |
| 132M-108-070 | NEW | 92-09-005 |
| 132M-108-080 | NEW-P | 92-04-058 |
| 132M-108-080 | NEW | 92-09-005 |
| 132M-110-130 | AMD-P | 92-04-057 |
| 132M-110-130 | AMD | 92-09-004 |
| 132M-112-010 | REP-P | 92-04-064 |
| 132M-112-010 | REP | 92-09-092 |
| 132M-112-011 | REP-P | 92-04-064 |
| 132M-112-011 | REP | 92-09-092 |
| 132M-113-010 | AMD-P | 92-04-065 |
| 132M-113-010 | AMD | 92-09-093 |
| 132M-113-015 | AMD-P | 92-04-065 |
| 132M-113-015 | AMD | 92-09-093 |
| 132M-113-020 | AMD-P | 92-04-065 |
| 132M-113-020 | AMD | 92-09-093 |
| 132M-113-025 | AMD-P | 92-04-065 |
| 132M-113-025 | AMD | 92-09-093 |
| 132M-113-030 | AMD-P | 92-04-065 |
| 132M-113-030 | AMD | 92-09-093 |
| 132M-113-035 | REP-P | 92-04-065 |
| 132M-113-035 | REP | 92-09-093 |
| 132M-113-045 | REP-P | 92-04-065 |
| 132M-113-045 | REP | 92-09-093 |
| 132M-113-050 | NEW-P | 92-04-065 |
| 132M-113-050 | NEW | 92-09-093 |
| 132M-113-055 | NEW-P | 92-04-065 |
| 132M-113-055 | NEW | 92-09-093 |
| 132M-115-001 | NEW-P | 92-04-061 |
| 132M-115-001 | NEW | 92-09-007 |
| 132M-115-010 | REP-P | 92-04-061 |
| 132M-115-010 | REP | 92-09-007 |
| 132M-115-020 | REP-P | 92-04-061 |
| 132M-115-020 | REP | 92-09-007 |
| 132M-115-030 | REP-P | 92-04-061 |
| 132M-115-030 | REP | 92-09-007 |
| 132M-115-040 | REP-P | 92-04-061 |
| 132M-115-040 | REP | 92-09-007 |
| 132M-120 | AMD-P | 92-04-059 |
| 132M-120 | AMD | 92-09-094 |
| 132M-120-010 | AMD-P | 92-04-059 |
| 132M-120-010 | AMD | 92-09-094 |
| 132M-120-020 | AMD-P | 92-04-059 |
| 132M-120-020 | AMD | 92-09-094 |
| 132M-120-025 | NEW-P | 92-04-059 |
| 132M-120-025 | NEW | 92-09-094 |
| 132M-120-030 | AMD-P | 92-04-059 |
| 132M-120-030 | AMD | 92-09-094 |
| 132M-120-040 | AMD-P | 92-04-059 |
| 132M-120-040 | AMD | 92-09-094 |
| 132M-120-050 | REP-P | 92-04-059 |
| 132M-120-050 | REP | 92-09-094 |
| 132M-120-065 | NEW-P | 92-04-059 |
| 132M-120-065 | NEW | 92-09-094 |
| 132M-120-070 | REP-P | 92-04-059 |
| 132M-120-070 | REP | 92-09-094 |
| 132M-120-080 | REP-P | 92-04-059 |
| 132M-120-080 | REP | 92-09-094 |
| 132M-120-095 | NEW-P | 92-04-059 |
| 132M-120-095 | NEW | 92-09-094 |
| 132M-120-100 | NEW-P | 92-04-059 |
| 132M-120-100 | NEW | 92-09-094 |
| 132M-120-110 | NEW-P | 92-04-059 |
| 132M-120-110 | NEW | 92-09-094 |
| 132M-120-120 | NEW-P | 92-04-059 |
| 132M-120-120 | NEW | 92-09-094 |
| 132M-120-130 | NEW-P | 92-04-059 |
| 132M-120-130 | NEW | 92-09-094 |
| 132M-120-200 | NEW-P | 92-04-059 |
| 132M-120-200 | NEW | 92-09-094 |
| 132M-120-210 | NEW-P | 92-04-059 |
| 132M-120-210 | NEW | 92-09-094 |
| 132M-120-220 | NEW-P | 92-04-059 |
| 132M-120-220 | NEW | 92-09-094 |
| 132M-120-300 | NEW-P | 92-04-059 |
| 132M-120-300 | NEW | 92-09-094 |
| 132M-120-310 | NEW-P | 92-04-059 |
| 132M-120-310 | NEW | 92-09-094 |
| 132M-120-320 | NEW-P | 92-04-059 |
| 132M-120-320 | NEW | 92-09-094 |
| 132M-136-020 | AMD-P | 92-04-063 |
| 132M-136-020 | AMD | 92-09-009 |
| 132M-136-060 | AMD-P | 92-04-063 |
| 132M-136-060 | AMD | 92-09-009 |
| 132M-136-100 | NEW-P | 92-04-063 |
| 132M-136-100 | NEW | 92-09-009 |
| 132M-140-010 | REP-P | 92-04-063 |
| 132M-140-010 | REP | 92-09-009 |
| 132M-160-010 | AMD-P | 92-04-062 |
| 132M-160-010 | AMD | 92-09-008 |
| 132M-300-001 | NEW-P | 92-04-064 |
| 132M-300-001 | NEW | 92-09-092 |
| 132M-300-010 | NEW-P | 92-04-064 |
| 132M-300-010 | NEW | 92-09-092 |
| 132M-400-010 | NEW-P | 92-04-060 |
| 132M-400-010 | NEW | 92-09-006 |
| 132M-400-020 | NEW-P | 92-04-060 |
| 132M-400-020 | NEW | 92-09-006 |
| 132M-400-030 | NEW-P | 92-04-060 |
| 132M-400-030 | NEW | 92-09-006 |
| 132M-400-040 | NEW-P | 92-04-060 |
| 132M-400-040 | NEW | 92-09-006 |
| 132Q-04-020 | AMD-P | 92-10-053 |
| 132Q-04-095 | AMD-P | 92-10-053 |
| 132Q-04-096 | NEW-P | 92-10-053 |
| 132Q-04-120 | AMD-P | 92-10-053 |
| 132Q-04-130 | AMD-P | 92-10-053 |
| 132Q-04-140 | AMD-P | 92-10-053 |
| 132Q-04-170 | AMD-P | 92-10-053 |
| 132Q-04-180 | AMD-P | 92-10-053 |
| 132Q-04-190 | AMD-P | 92-10-053 |
| 132Q-04-200 | AMD-P | 92-10-053 |
| 132Q-04-210 | AMD-P | 92-10-053 |
| 132Q-04-250 | AMD-P | 92-10-053 |
| 132Q-04-260 | AMD-P | 92-10-053 |
| 132Q-04-280 | AMD-P | 92-10-053 |
| 132Q-05-050 | AMD-P | 92-10-052 |
| 132Q-05-060 | AMD-P | 92-10-052 |
| 132Q-05-070 | AMD-P | 92-10-052 |
| 132Q-05-080 | AMD-P | 92-10-052 |
| 132Q-05-090 | AMD-P | 92-10-052 |
| 132Q-05-100 | AMD-P | 92-10-052 |
| 132Q-05-120 | AMD-P | 92-10-052 |
| 132Q-06-020 | AMD-P | 92-10-057 |
| 132Q-06-025 | AMD-P | 92-10-057 |
| 132Q-06-030 | AMD-P | 92-10-057 |
| 132Q-06-040 | AMD-P | 92-10-057 |
| 132Q-12-010 | AMD-P | 92-10-056 |
| 132Q-16-003 | REP-P | 92-10-058 |
| 132Q-16-006 | REP-P | 92-10-058 |
| 132Q-16-009 | REP-P | 92-10-058 |
| 132Q-16-012 | REP-P | 92-10-058 |
| 132Q-16-015 | REP-P | 92-10-058 |
| 132Q-16-018 | REP-P | 92-10-058 |
| 132Q-16-021 | REP-P | 92-10-058 |
| 132Q-16-024 | REP-P | 92-10-058 |
| 132Q-16-027 | REP-P | 92-10-058 |
| 132Q-16-030 | REP-P | 92-10-058 |
| 132Q-16-033 | REP-P | 92-10-058 |
| 132Q-16-036 | REP-P | 92-10-058 |
| 132Q-16-039 | REP-P | 92-10-058 |
| 132Q-16-042 | REP-P | 92-10-058 |
| 132Q-16-045 | REP-P | 92-10-058 |
| 132Q-16-048 | REP-P | 92-10-058 |
| 132Q-16-051 | REP-P | 92-10-058 |
| 132Q-16-054 | REP-P | 92-10-058 |
| 132Q-16-057 | REP-P | 92-10-058 |
| 132Q-16-060 | REP-P | 92-10-058 |
| 132Q-16-063 | REP-P | 92-10-058 |
| 132Q-20-020 | AMD-P | 92-10-051 |
| 132Q-20-040 | AMD-P | 92-10-051 |
| 132Q-20-060 | AMD-P | 92-10-051 |
| 132Q-20-090 | AMD-P | 92-10-051 |
| 132Q-20-110 | AMD-P | 92-10-051 |
| 132Q-20-130 | AMD-P | 92-10-051 |
| 132Q-20-160 | AMD-P | 92-10-051 |
| 132Q-20-170 | AMD-P | 92-10-051 |
| 132Q-20-200 | AMD-P | 92-10-051 |
| 132Q-20-210 | AMD-P | 92-10-051 |
| 132Q-20-220 | AMD-P | 92-10-051 |
| 132Q-20-240 | AMD-P | 92-10-051 |
| 132Q-20-250 | AMD-P | 92-10-051 |
| 132Q-20-260 | AMD-P | 92-10-051 |
| 132Q-108-050 | AMD-P | 92-10-054 |
| 132Q-113-010 | AMD-P | 92-10-055 |
| 132Y-100-008 | AMD-P | 92-04-067 |
| 132Y-100-008 | AMD | 92-09-055 |
| 132Y-100-010 | REP-P | 92-04-067 |
| 132Y-100-010 | REP | 92-09-055 |
| 132Y-100-028 | AMD-P | 92-04-067 |
| 132Y-100-028 | AMD | 92-09-055 |
| 132Y-100-036 | REP-P | 92-04-067 |
| 132Y-100-036 | REP | 92-09-055 |
| 132Y-100-040 | REP-P | 92-04-067 |
| 132Y-100-040 | REP | 92-09-055 |
| 132Y-100-044 | AMD-P | 92-04-067 |
| 132Y-100-044 | AMD | 92-09-055 |
| 132Y-100-048 | REP-P | 92-04-067 |
| 132Y-100-048 | REP | 92-09-055 |
| 132Y-100-066 | NEW-P | 92-04-067 |
| 132Y-100-066 | NEW | 92-09-055 |
| 132Y-100-072 | AMD-P | 92-04-067 |
| 132Y-100-072 | AMD | 92-09-055 |
| 132Y-100-100 | AMD-P | 92-04-067 |
| 132Y-100-100 | AMD | 92-09-055 |
| 132Y-100-104 | AMD-P | 92-04-067 |
| 132Y-100-104 | AMD | 92-09-055 |
| 132Y-100-112 | AMD-P | 92-04-067 |
| 132Y-100-112 | AMD | 92-09-055 |
| 132Y-100-116 | AMD-P | 92-04-067 |
| 132Y-100-116 | AMD | 92-09-055 |
| 132Y-100-120 | AMD-P | 92-04-067 |
| 132Y-100-120 | AMD | 92-09-055 |
| 136-01-010 | AMD-P | 92-08-068 |
| 136-01-020 | AMD-P | 92-08-068 |
| 136-01-030 | AMD-P | 92-08-068 |
| 136-03-010 | NEW-P | 92-08-069 |
| 136-03-020 | NEW-P | 92-08-069 |
| 136-03-030 | NEW-P | 92-08-069 |
| 136-03-040 | NEW-P | 92-08-069 |
| 136-03-050 | NEW-P | 92-08-069 |
| 136-03-060 | NEW-P | 92-08-069 |
| 136-03-070 | NEW-P | 92-08-069 |
| 136-03-080 | NEW-P | 92-08-069 |
| 136-03-090 | NEW-P | 92-08-069 |
| 136-03-100 | NEW-P | 92-08-069 |
| 136-03-110 | NEW-P | 92-08-069 |
| 136-130-030 | AMD-P | 92-08-070 |
| 136-130-050 | AMD-P | 92-08-070 |
| 136-130-060 | AMD-P | 92-08-070 |
| 136-130-070 | AMD-P | 92-08-070 |
| 136-160-050 | AMD-P | 92-08-071 |
| 136-160-060 | AMD-P | 92-08-071 |
| 136-210-020 | AMD-P | 92-08-072 |
| 136-210-030 | AMD-P | 92-08-072 |
| 142-12-026 | AMD-P | 92-10-031 |
| 142-40-010 | NEW-P | 92-10-032 |
| 142-40-020 | NEW-P | 92-10-032 |
| 142-40-030 | NEW-P | 92-10-032 |
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| 172-04-010 | NEW | 92-09-101 |

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| 172-65-030 | AMD-P | 92-05-054 |
| 172-65-030 | AMD | 92-09-103 |
| 172-65-040 | AMD-P | 92-05-054 |
| 172-65-040 | AMD | 92-09-103 |
| 172-65-050 | AMD-P | 92-05-054 |
| 172-65-050 | AMD | 92-09-103 |
| 172-65-060 | AMD-P | 92-05-054 |
| 172-65-060 | AMD | 92-09-103 |
| 172-65-070 | AMD-P | 92-05-054 |
| 172-65-070 | AMD | 92-09-103 |
| 172-65-080 | AMD-P | 92-05-054 |
| 172-65-080 | AMD | 92-09-103 |
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| 172-108-010 | NEW-P | 92-04-084 |
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| 172-108-020 | NEW-P | 92-04-084 |
| 172-108-020 | NEW | 92-09-100 |
| 172-108-030 | NEW-P | 92-04-084 |
| 172-108-030 | NEW | 92-09-100 |
| 172-108-040 | NEW-P | 92-04-084 |
| 172-108-040 | NEW | 92-09-100 |
| 172-108-050 | NEW-P | 92-04-084 |
| 172-108-050 | NEW | 92-09-100 |
| 172-108-060 | NEW-P | 92-04-084 |
| 172-108-060 | NEW | 92-09-100 |
| 172-108-070 | NEW-P | 92-04-084 |
| 172-108-070 | NEW | 92-09-100 |
| 172-108-080 | NEW-P | 92-04-084 |
| 172-108-080 | NEW | 92-09-100 |
| 172-108-090 | NEW-P | 92-04-084 |
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| 172-124-010 | AMD-P | 92-05-056 |
| 172-124-010 | AMD | 92-09-105 |
| 172-124-020 | AMD-P | 92-05-056 |
| 172-124-020 | AMD | 92-09-105 |
| 172-124-100 | REP-P | 92-05-056 |
| 172-124-100 | REP | 92-09-105 |
| 172-124-200 | REP-P | 92-05-056 |
| 172-124-200 | REP | 92-09-105 |
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| 172-124-210 | REP | 92-09-105 |
| 172-124-220 | REP-P | 92-05-056 |
| 172-124-220 | REP | 92-09-105 |
| 172-144-010 | AMD-P | 92-05-053 |
| 172-144-010 | AMD | 92-09-102 |
| 172-144-020 | AMD-P | 92-05-053 |
| 172-144-020 | AMD | 92-09-102 |
| 172-144-030 | REP-P | 92-05-053 |
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| 172-144-045 | NEW | 92-09-102 |
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| 173-19-2511 | AMD-P | 92-07-087 |
| 173-19-2515 | AMD-P | 92-03-128 |
| 173-19-2515 | AMD-C | 92-09-131 |
| 173-19-2515 | AMD | 92-11-044 |
| 173-19-2521 | AMD-P | 92-07-088 |
| 173-19-2521 | AMD-C | 92-09-128 |
| 173-19-2523 | AMD-P | 92-09-132 |
| 173-19-2601 | AMD | 92-04-081 |
| 173-19-2602 | AMD-P | 92-03-129 |
| 173-19-2602 | AMD-C | 92-09-127 |
| 173-19-360 | AMD-P | 92-11-042 |
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| 173-19-4205 | AMD | 92-09-134 |
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| 173-175-120 | NEW-P | 92-06-091 |
| 173-175-130 | NEW-P | 92-06-091 |
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| 173-175-260 | NEW-P | 92-06-091 |
| 173-175-270 | NEW-P | 92-06-091 |
| 173-175-350 | NEW-P | 92-06-091 |
| 173-175-360 | NEW-P | 92-06-091 |
| 173-175-370 | NEW-P | 92-06-091 |
| 173-175-380 | NEW-P | 92-06-091 |
| 173-175-390 | NEW-P | 92-06-091 |
| 173-175-400 | NEW-P | 92-06-091 |
| 173-175-500 | NEW-P | 92-06-091 |
| 173-175-510 | NEW-P | 92-06-091 |
| 173-175-520 | NEW-P | 92-06-091 |
| 173-175-600 | NEW-P | 92-06-091 |
| 173-175-610 | NEW-P | 92-06-091 |
| 173-175-620 | NEW-P | 92-06-091 |
| 173-175-630 | NEW-P | 92-06-091 |
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| 173-180D-050 | NEW-P | 92-06-087 |
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| 173-180D-060 | NEW-P | 92-06-087 |
| 173-180D-065 | NEW-P | 92-06-087 |
| 173-180D-070 | NEW-P | 92-06-087 |
| 173-180D-075 | NEW-P | 92-06-087 |
| 173-180D-080 | NEW-P | 92-06-087 |
| 173-180D-085 | NEW-P | 92-06-087 |
| 173-180D-090 | NEW-P | 92-06-087 |
| 173-180D-098 | NEW-P | 92-06-087 |
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| 173-183-030 | NEW | 92-10-005 |
| 173-183-100 | NEW | 92-10-005 |
| 173-183-200 | NEW | 92-10-005 |
| 173-183-210 | NEW | 92-10-005 |
| 173-183-220 | NEW | 92-10-005 |
| 173-183-230 | NEW | 92-10-005 |
| 173-183-240 | NEW | 92-10-005 |
| 173-183-250 | NEW | 92-10-005 |
| 173-183-260 | NEW | 92-10-005 |
| 173-183-270 | NEW | 92-10-005 |
| 173-183-300 | NEW | 92-10-005 |
| 173-183-310 | NEW | 92-10-005 |
| 173-183-320 | NEW | 92-10-005 |
| 173-183-330 | NEW | 92-10-005 |
| 173-183-340 | NEW | 92-10-005 |
| 173-183-350 | NEW-W | 92-11-038 |
| 173-183-400 | NEW | 92-10-005 |
| 173-183-410 | NEW | 92-10-005 |
| 173-183-420 | NEW | 92-10-005 |
| 173-183-430 | NEW | 92-10-005 |
| 173-183-440 | NEW | 92-10-005 |
| 173-183-450 | NEW | 92-10-005 |
| 173-183-460 | NEW | 92-10-005 |
| 173-183-470 | NEW | 92-10-005 |
| 173-183-500 | NEW | 92-10-005 |
| 173-183-600 | NEW | 92-10-005 |
| 173-183-610 | NEW | 92-10-005 |
| 173-183-620 | NEW | 92-10-005 |
| 173-183-700 | NEW | 92-10-005 |
| 173-183-710 | NEW | 92-10-005 |
| 173-183-800 | NEW | 92-10-005 |
| 173-183-810 | NEW | 92-10-005 |
| 173-183-820 | NEW | 92-10-005 |
| 173-183-830 | NEW | 92-10-005 |
| 173-183-840 | NEW | 92-10-005 |
| 173-183-850 | NEW | 92-10-005 |
| 173-183-860 | NEW | 92-10-005 |
| 173-183-865 | NEW | 92-10-005 |
| 173-183-870 | NEW | 92-10-005 |
| 173-183-880 | NEW | 92-10-005 |
| 173-183-890 | NEW | 92-10-005 |
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| 173-183-910 | NEW | 92-10-005 |
| 173-183-920 | NEW | 92-10-005 |
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| 173-201-025 | REP-P | 92-11-041 |
| 173-201-035 | REP-P | 92-11-041 |
| 173-201-045 | REP-P | 92-11-041 |
| 173-201-047 | REP-P | 92-11-041 |
| 173-201-070 | REP-P | 92-11-041 |
| 173-201-080 | REP-P | 92-11-041 |
| 173-201-085 | REP-P | 92-11-041 |
| 173-201-090 | REP-P | 92-11-041 |
| 173-201-100 | REP-P | 92-11-041 |
| 173-201-110 | REP-P | 92-11-041 |
| 173-201-120 | REP-P | 92-11-041 |
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| 173-201A-030 | NEW-P | 92-11-041 |
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| 173-201A-080 | NEW-P | 92-11-041 |
| 173-201A-100 | NEW-P | 92-11-041 |
| 173-201A-110 | NEW-P | 92-11-041 |
| 173-201A-120 | NEW-P | 92-11-041 |
| 173-201A-130 | NEW-P | 92-11-041 |
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| 173-201A-150 | NEW-P | 92-11-041 |
| 173-201A-160 | NEW-P | 92-11-041 |
| 173-201A-170 | NEW-P | 92-11-041 |
| 173-201A-180 | NEW-P | 92-11-041 |
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| 173-303-145 | AMD-C | 92-11-040 |
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| 173-422-040 | AMD-P | 92-09-133 |
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| 173-422-070 | AMD-P | 92-09-133 |
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| 173-422-095 | NEW-P | 92-09-133 |
| 173-422-100 | AMD-P | 92-09-133 |
| 173-422-110 | REP-P | 92-09-133 |
| 173-422-120 | AMD-P | 92-09-133 |
| 173-422-130 | AMD-P | 92-09-133 |
| 173-422-140 | AMD-P | 92-09-133 |
| 173-422-150 | REP-P | 92-09-133 |
| 173-422-160 | AMD-P | 92-09-133 |
| 173-422-170 | AMD-P | 92-09-133 |
| 173-422-180 | REP-P | 92-09-133 |
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| 180-75-090 | AMD | 92-04-044 |
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| 180-86-155 | AMD-P | 92-08-077 |
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| 192-12-305 | AMD-P | 92-03-145 |
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| 220-32-05100K | REP-E | 92-07-007 |
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| 220-32-05700J | NEW-E | 92-04-051 |
| 220-32-05700J | REP-E | 92-07-007 |
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| 220-44-030 | AMD | 92-07-008 |
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| 220-44-050 | AMD | 92-07-008 |
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| 220-44-05000T | REP-E | 92-09-084 |
| 220-44-05000U | NEW-E | 92-09-084 |
| 220-44-05000U | REP-E | 92-11-021 |
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| 220-47-307 | AMD-P | 92-09-137 |
| 220-47-311 | AMD-P | 92-09-137 |
| 220-47-319 | AMD-P | 92-09-137 |
| 220-47-401 | AMD-P | 92-09-137 |
| 220-47-411 | AMD-P | 92-09-137 |
| 220-47-412 | AMD-P | 92-09-137 |
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| 220-48-042 | AMD | 92-11-011 |
| 220-48-052 | AMD-P | 92-06-092 |
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| 220-56-145 | AMD-P | 92-03-151 |
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| 220-56-38000J | NEW-E | 92-09-083 |
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| 220-57-51500H | NEW-E | 92-08-031 |
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| 222-16-030 | AMD-P | 92-07-093 |
| 222-16-030 | AMD-S | 92-11-069 |
| 222-16-035 | NEW-P | 92-07-093 |
| 222-16-035 | NEW-S | 92-11-069 |
| 222-16-046 | NEW-E | 92-09-064 |
| 222-16-050 | AMD-E | 92-06-004 |
| 222-16-050 | AMD-P | 92-07-093 |
| 222-16-050 | AMD-S | 92-11-069 |
| 222-16-070 | NEW-E | 92-06-004 |
| 222-16-070 | NEW-P | 92-07-093 |
| 222-16-070 | NEW-S | 92-11-069 |
| 222-16-080 | NEW-P | 92-07-093 |
| 222-16-080 | NEW-S | 92-11-069 |
| 222-22-010 | NEW-P | 92-07-093 |
| 222-22-010 | NEW-S | 92-11-069 |
| 222-22-020 | NEW-P | 92-07-093 |
| 222-22-020 | NEW-S | 92-11-069 |
| 222-22-030 | NEW-P | 92-07-093 |
| 222-22-030 | NEW-S | 92-11-069 |
| 222-22-040 | NEW-P | 92-07-093 |
| 222-22-040 | NEW-S | 92-11-069 |
| 222-22-050 | NEW-P | 92-07-093 |
| 222-22-050 | NEW-S | 92-11-069 |
| 222-22-060 | NEW-P | 92-07-093 |
| 222-22-060 | NEW-S | 92-11-069 |
| 222-22-070 | NEW-P | 92-07-093 |
| 222-22-070 | NEW-S | 92-11-069 |
| 222-22-080 | NEW-P | 92-07-093 |
| 222-22-080 | NEW-S | 92-11-069 |
| 222-22-090 | NEW-P | 92-07-093 |
| 222-22-090 | NEW-S | 92-11-069 |
| 222-22-100 | NEW-P | 92-07-093 |
| 222-22-100 | NEW-S | 92-11-069 |
| 222-24-010 | AMD-P | 92-07-093 |
| 222-24-010 | AMD-S | 92-11-069 |
| 222-24-020 | AMD-P | 92-07-093 |
| 222-24-020 | AMD-S | 92-11-069 |
| 222-24-025 | AMD-P | 92-07-093 |
| 222-24-025 | AMD-S | 92-11-069 |
| 222-24-030 | AMD-P | 92-07-093 |
| 222-24-030 | AMD-S | 92-11-069 |
| 222-24-035 | AMD-P | 92-07-093 |
| 222-24-035 | AMD-S | 92-11-069 |
| 222-24-040 | AMD-P | 92-07-093 |
| 222-24-040 | AMD-S | 92-11-069 |
| 222-24-050 | AMD-P | 92-07-093 |
| 222-24-050 | AMD-S | 92-11-069 |
| 222-24-060 | AMD-P | 92-07-093 |
| 222-24-060 | AMD-S | 92-11-069 |
| 222-30-010 | AMD-P | 92-07-093 |
| 222-30-010 | AMD-S | 92-11-069 |
| 222-30-020 | AMD-P | 92-07-093 |
| 222-30-020 | AMD-S | 92-11-069 |
| 222-30-025 | NEW-P | 92-07-093 |
| 222-30-025 | NEW-S | 92-11-069 |
| 222-30-040 | AMD-P | 92-07-093 |
| 222-30-040 | AMD-S | 92-11-069 |
| 222-30-050 | AMD-P | 92-07-093 |
| 222-30-050 | AMD-S | 92-11-069 |
| 222-30-060 | AMD-P | 92-07-093 |
| 222-30-060 | AMD-S | 92-11-069 |
| 222-30-070 | AMD-P | 92-07-093 |
| 222-30-070 | AMD-S | 92-11-069 |
| 222-30-090 | AMD-P | 92-07-093 |
| 222-30-090 | AMD-S | 92-11-069 |
| 222-30-100 | AMD-P | 92-07-093 |
| 222-30-100 | AMD-S | 92-11-069 |
| 222-30-110 | NEW-P | 92-07-093 |
| 222-30-110 | NEW-S | 92-11-069 |
| 222-30-120 | NEW | 92-08-025 |
| 222-34-040 | AMD-P | 92-07-093 |
| 222-38-010 | AMD-P | 92-07-093 |
| 222-38-010 | AMD-S | 92-11-069 |
| 222-38-020 | AMD-P | 92-07-093 |
| 222-38-020 | AMD-S | 92-11-069 |
| 222-38-030 | NEW-P | 92-07-093 |
| 222-38-030 | NEW-S | 92-11-069 |
| 222-38-040 | NEW-P | 92-07-093 |
| 222-38-040 | NEW-S | 92-11-069 |
| 230-20-685 | NEW-C | 92-08-057 |
| 230-50-580 | AMD-E | 92-06-033 |
| 232-12-021 | AMD-P | 92-02-086 |
| 232-12-021 | AMD-C | 92-05-018 |
| 232-12-074 | AMD-P | 92-02-086 |
| 232-12-074 | AMD-C | 92-05-018 |
| 232-12-077 | AMD-P | 92-02-086 |
| 232-12-077 | AMD-C | 92-05-018 |
| 232-12-147 | AMD-P | 92-06-072 |
| 232-12-147 | AMD-E | 92-08-066 |
| 232-12-147 | AMD | 92-11-078 |
| 232-12-160 | NEW | 92-09-076 |
| 232-12-170 | NEW | 92-09-076 |
| 232-12-171 | NEW | 92-09-076 |
| 232-12-175 | NEW | 92-09-076 |
| 232-12-180 | NEW | 92-09-076 |
| 232-12-267 | AMD-P | 92-02-086 |
| 232-12-267 | AMD-C | 92-05-018 |
| 232-12-277 | AMD-P | 92-02-086 |
| 232-12-277 | AMD-C | 92-05-018 |
| 232-28-022 | AMD-P | 92-02-085 |
| 232-28-022 | AMD | 92-06-017 |
| 232-28-022 | AMD-P | 92-09-042 |
| 232-28-226 | AMD-P | 92-06-075 |

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| 232-28-228 | AMD | 92-06-018 |
| 232-28-228 | AMD-P | 92-06-077 |
| 232-28-229 | REP-P | 92-06-078 |
| 232-28-230 | REP-P | 92-06-079 |
| 232-28-231 | REP-P | 92-06-080 |
| 232-28-233 | NEW-P | 92-06-078 |
| 232-28-234 | NEW-P | 92-06-079 |
| 232-28-235 | NEW-P | 92-06-080 |
| 232-28-61825 | NEW-E | 92-03-013 |
| 232-28-61826 | NEW-E | 92-05-022 |
| 232-28-61827 | NEW-E | 92-05-021 |
| 232-28-61828 | NEW-E | 92-05-019 |
| 232-28-61829 | NEW-E | 92-05-024 |
| 232-28-61830 | NEW-E | 92-08-067 |
| 232-28-61831 | NEW-E | 92-08-064 |
| 232-28-61901 | NEW-P | 92-02-088 |
| 232-28-61901 | NEW | 92-07-038 |
| 232-28-61902 | NEW-P | 92-02-089 |
| 232-28-61902 | NEW | 92-07-039 |
| 232-28-61903 | NEW-P | 92-02-090 |
| 232-28-61903 | NEW-W | 92-07-037 |
| 232-28-61904 | NEW-P | 92-02-091 |
| 232-28-61904 | NEW | 92-07-040 |
| 232-28-61905 | NEW-P | 92-02-092 |
| 232-28-61905 | NEW | 92-07-041 |
| 232-28-61906 | NEW-P | 92-02-093 |
| 232-28-61906 | NEW | 92-07-042 |
| 232-28-61907 | NEW-E | 92-05-020 |
| 232-28-61907 | NEW-P | 92-06-073 |
| 232-28-61907 | NEW | 92-11-079 |
| 232-28-61908 | NEW-P | 92-06-074 |
| 232-28-61908 | NEW | 92-11-080 |
| 232-28-61909 | NEW-P | 92-09-136 |
| 232-28-714 | REP-P | 92-02-094 |
| 232-28-714 | REP | 92-06-019 |
| 236-12-001 | AMD | 92-04-036 |
| 236-12-010 | REP | 92-04-036 |
| 236-12-011 | REP | 92-04-036 |
| 236-12-011 | AMD-W | 92-11-039 |
| 236-12-012 | REP | 92-04-036 |
| 236-12-013 | REP | 92-04-036 |
| 236-12-014 | REP | 92-04-036 |
| 236-12-015 | NEW | 92-04-036 |
| 236-12-040 | REP | 92-04-036 |
| 236-12-050 | REP | 92-04-036 |
| 236-12-060 | REP | 92-04-036 |
| 236-12-061 | REP | 92-04-036 |
| 236-12-120 | REP | 92-04-036 |
| 236-12-130 | REP | 92-04-036 |
| 236-12-131 | REP | 92-04-036 |
| 236-12-132 | REP | 92-04-036 |
| 236-12-133 | REP | 92-04-036 |
| 236-12-160 | NEW | 92-09-076 |
| 236-12-170 | NEW | 92-09-076 |
| 236-12-171 | NEW | 92-09-076 |
| 236-12-175 | NEW | 92-09-076 |
| 236-12-180 | NEW | 92-09-076 |
| 236-12-185 | NEW | 92-04-036 |
| 236-12-186 | NEW | 92-04-036 |
| 236-12-187 | NEW | 92-04-036 |
| 236-12-188 | NEW | 92-04-036 |
| 236-12-189 | NEW | 92-04-036 |
| 236-12-190 | NEW | 92-04-036 |
| 236-12-191 | NEW | 92-04-036 |
| 236-12-200 | AMD | 92-04-036 |
| 236-12-220 | AMD | 92-04-036 |
| 236-12-225 | REP | 92-04-036 |
| 236-12-290 | AMD | 92-04-037 |
| 236-12-300 | AMD | 92-04-037 |
| 236-12-320 | AMD | 92-04-036 |
| 236-12-340 | REP | 92-04-036 |
| 236-12-350 | NEW | 92-04-036 |
| 236-12-351 | NEW | 92-04-036 |
| 236-12-360 | NEW | 92-04-036 |
| 236-12-361 | NEW | 92-04-036 |
| 236-12-362 | NEW | 92-04-036 |
| 236-12-365 | NEW | 92-04-036 |
| 236-12-370 | NEW | 92-04-036 |
| 236-12-371 | NEW | 92-04-036 |
| 236-12-372 | NEW | 92-04-036 |
| 236-14-010 | NEW-P | 92-10-082 |
| 236-14-015 | NEW-P | 92-10-082 |
| 236-14-100 | NEW-P | 92-10-082 |
| 236-14-900 | NEW-P | 92-10-082 |
| 236-22-010 | NEW-P | 92-09-155 |
| 236-22-100 | NEW-P | 92-09-155 |
| 236-48-190 | AMD-P | 92-05-042 |
| 236-48-190 | AMD | 92-09-016 |
| 240-10-040 | AMD-E | 92-09-096 |
| 240-15-005 | AMD-P | 92-08-060 |
| 240-15-005 | AMD | 92-11-017 |
| 240-15-010 | AMD-P | 92-08-060 |
| 240-15-010 | AMD | 92-11-017 |
| 240-15-015 | AMD-P | 92-08-060 |
| 240-15-015 | AMD | 92-11-017 |
| 240-15-020 | AMD-P | 92-08-060 |
| 240-15-020 | AMD | 92-11-017 |
| 240-15-025 | AMD-P | 92-08-060 |
| 240-15-025 | AMD | 92-11-017 |
| 240-15-030 | AMD-P | 92-08-060 |
| 240-15-030 | AMD | 92-11-017 |
| 240-15-035 | AMD-P | 92-08-060 |
| 240-15-035 | AMD | 92-11-017 |
| 246-08-390 | NEW | 92-07-080 |
| 246-205 | AMD-S | 92-03-143 |
| 246-205 | AMD-S | 92-04-071 |
| 246-205 | AMD | 92-10-027 |
| 246-205-001 | AMD-S | 92-03-143 |
| 246-205-001 | AMD-S | 92-04-071 |
| 246-205-001 | AMD | 92-10-027 |
| 246-205-010 | AMD-S | 92-04-071 |
| 246-205-010 | AMD | 92-10-027 |
| 246-205-520 | NEW-S | 92-03-143 |
| 246-205-520 | NEW-S | 92-04-071 |
| 246-205-520 | NEW | 92-10-027 |
| 246-205-530 | NEW-S | 92-03-143 |
| 246-205-530 | NEW-S | 92-04-071 |
| 246-205-530 | NEW | 92-10-027 |
| 246-205-540 | NEW-S | 92-03-143 |
| 246-205-540 | NEW-S | 92-04-071 |
| 246-205-540 | NEW | 92-10-027 |
| 246-205-550 | NEW-S | 92-03-143 |
| 246-205-550 | NEW-S | 92-04-071 |
| 246-205-550 | NEW | 92-10-027 |
| 246-205-560 | NEW-S | 92-03-143 |
| 246-205-560 | NEW-S | 92-04-071 |
| 246-205-560 | NEW | 92-10-027 |
| 246-205-570 | NEW-S | 92-03-143 |
| 246-205-570 | NEW-S | 92-04-071 |
| 246-205-570 | NEW | 92-10-027 |
| 246-205-580 | NEW-S | 92-03-143 |
| 246-205-580 | NEW-S | 92-04-071 |
| 246-205-580 | NEW | 92-10-027 |
| 246-215-001 | AMD-P | 92-03-142 |
| 246-215-001 | AMD | 92-08-112 |
| 246-215-009 | REP-P | 92-03-142 |
| 246-215-009 | REP | 92-08-112 |
| 246-215-010 | NEW-P | 92-03-142 |
| 246-215-010 | NEW | 92-08-112 |
| 246-215-019 | REP-P | 92-03-142 |
| 246-215-019 | REP | 92-08-112 |
| 246-215-020 | NEW-P | 92-03-142 |
| 246-215-020 | NEW | 92-08-112 |
| 246-215-029 | REP-P | 92-03-142 |
| 246-215-029 | REP | 92-08-112 |
| 246-215-030 | NEW-P | 92-03-142 |
| 246-215-030 | NEW | 92-08-112 |
| 246-215-039 | REP-P | 92-03-142 |
| 246-215-039 | REP | 92-08-112 |
| 246-215-040 | NEW-P | 92-03-142 |
| 246-215-040 | NEW | 92-08-112 |
| 246-215-049 | REP-P | 92-03-142 |
| 246-215-049 | REP | 92-08-112 |
| 246-215-050 | NEW-P | 92-03-142 |
| 246-215-050 | NEW | 92-08-112 |
| 246-215-059 | REP-P | 92-03-142 |
| 246-215-059 | REP | 92-08-112 |
| 246-215-060 | NEW-P | 92-03-142 |
| 246-215-060 | NEW | 92-08-112 |
| 246-215-069 | REP-P | 92-03-142 |
| 246-215-069 | REP | 92-08-112 |
| 246-215-070 | NEW-P | 92-03-142 |
| 246-215-070 | NEW | 92-08-112 |
| 246-215-079 | REP-P | 92-03-142 |
| 246-215-079 | REP | 92-08-112 |
| 246-215-080 | NEW-P | 92-03-142 |
| 246-215-080 | NEW | 92-08-112 |
| 246-215-089 | REP-P | 92-03-142 |
| 246-215-089 | REP | 92-08-112 |
| 246-215-090 | NEW-P | 92-03-142 |
| 246-215-090 | NEW | 92-08-112 |
| 246-215-099 | REP-P | 92-03-142 |
| 246-215-099 | REP | 92-08-112 |
| 246-215-100 | NEW-P | 92-03-142 |
| 246-215-100 | NEW | 92-08-112 |
| 246-215-109 | REP-P | 92-03-142 |
| 246-215-109 | REP | 92-08-112 |
| 246-215-110 | NEW-P | 92-03-142 |
| 246-215-110 | NEW | 92-08-112 |
| 246-215-119 | REP-P | 92-03-142 |
| 246-215-119 | REP | 92-08-112 |
| 246-215-120 | NEW-P | 92-03-142 |
| 246-215-120 | NEW | 92-08-112 |
| 246-215-129 | REP-P | 92-03-142 |
| 246-215-129 | REP | 92-08-112 |
| 246-215-130 | NEW-P | 92-03-142 |
| 246-215-130 | NEW | 92-08-112 |
| 246-215-139 | REP-P | 92-03-142 |
| 246-215-139 | REP | 92-08-112 |
| 246-215-140 | NEW-P | 92-03-142 |
| 246-215-140 | NEW | 92-08-112 |
| 246-215-149 | REP-P | 92-03-142 |
| 246-215-149 | REP | 92-08-112 |
| 246-215-150 | NEW-P | 92-03-142 |
| 246-215-150 | NEW | 92-08-112 |
| 246-215-159 | REP-P | 92-03-142 |
| 246-215-159 | REP | 92-08-112 |
| 246-215-160 | NEW-P | 92-03-142 |
| 246-215-160 | NEW | 92-08-112 |
| 246-215-169 | REP-P | 92-03-142 |
| 246-215-169 | REP | 92-08-112 |
| 246-215-170 | NEW-P | 92-03-142 |
| 246-215-170 | NEW | 92-08-112 |
| 246-215-179 | REP-P | 92-03-142 |
| 246-215-179 | REP | 92-08-112 |
| 246-215-180 | NEW-P | 92-03-142 |
| 246-215-180 | NEW | 92-08-112 |
| 246-215-189 | REP-P | 92-03-142 |
| 246-215-189 | REP | 92-08-112 |
| 246-215-190 | NEW-P | 92-03-142 |
| 246-215-190 | NEW | 92-08-112 |
| 246-215-199 | REP-P | 92-03-142 |
| 246-215-199 | REP | 92-08-112 |
| 246-215-200 | NEW-P | 92-03-142 |
| 246-215-200 | NEW | 92-08-112 |
| 246-215-209 | REP-P | 92-03-142 |
| 246-215-209 | REP | 92-08-112 |
| 246-215-210 | NEW-P | 92-03-142 |
| 246-215-210 | NEW | 92-08-112 |
| 246-215-219 | REP-P | 92-03-142 |
| 246-215-219 | REP | 92-08-112 |
| 246-215-220 | NEW-P | 92-03-142 |
| 246-215-220 | NEW | 92-08-112 |
| 246-215-229 | REP-P | 92-03-142 |
| 246-215-229 | REP | 92-08-112 |
| 246-215-230 | NEW-P | 92-03-142 |
| 246-215-230 | NEW | 92-08-112 |
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| 246-215-239 | REP | 92-08-112 |

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| 246-215-250 | NEW | 92-08-112 |
| 246-215-260 | NEW-P | 92-03-142 |
| 246-215-260 | NEW | 92-08-112 |
| 246-215-270 | NEW-P | 92-03-142 |
| 246-215-270 | NEW | 92-08-112 |
| 246-215-280 | NEW-P | 92-03-142 |
| 246-215-280 | NEW | 92-08-112 |
| 246-215-290 | NEW-P | 92-03-142 |
| 246-215-290 | NEW | 92-08-112 |
| 246-215-300 | NEW-P | 92-03-142 |
| 246-215-300 | NEW | 92-08-112 |
| 246-215-500 | REP-P | 92-03-142 |
| 246-215-500 | REP | 92-08-112 |
| 246-215-900 | REP-P | 92-03-142 |
| 246-215-900 | REP | 92-08-112 |
| 246-217-030 | AMD-P | 92-09-144 |
| 246-221-090 | AMD | 92-06-008 |
| 246-225-160 | NEW | 92-05-011 |
| 246-232-050 | AMD | 92-06-008 |
| 246-235-075 | NEW | 92-06-008 |
| 246-239-010 | AMD | 92-06-008 |
| 246-239-025 | NEW | 92-06-008 |
| 246-240-010 | NEW | 92-06-008 |
| 246-240-050 | NEW | 92-06-008 |
| 246-243-050 | AMD | 92-06-008 |
| 246-243-190 | AMD | 92-06-008 |
| 246-290-010 | AMD | 92-04-070 |
| 246-290-300 | AMD | 92-04-070 |
| 246-290-310 | AMD | 92-04-070 |
| 246-290-320 | AMD | 92-04-070 |
| 246-290-330 | AMD | 92-04-070 |
| 246-290-480 | AMD | 92-04-070 |
| 246-290-990 | PREP | 92-10-025 |
| 246-310-020 | AMD | 92-05-057 |
| 246-310-132 | AMD-P | 92-09-086 |
| 246-310-132 | AMD-E | 92-09-087 |
| 246-310-135 | NEW | 92-05-057 |
| 246-310-136 | NEW | 92-05-057 |
| 246-316-990 | AMD-P | 92-07-097 |
| 246-318-990 | AMD-P | 92-07-097 |
| 246-322-990 | AMD-P | 92-07-097 |
| 246-322-991 | AMD-P | 92-07-097 |
| 246-323-990 | AMD-P | 92-10-014 |
| 246-325-990 | AMD-P | 92-10-014 |
| 246-326-990 | AMD-P | 92-07-097 |
| 246-327-990 | AMD-P | 92-10-013 |
| 246-331-990 | AMD-P | 92-10-013 |
| 246-336-990 | AMD-P | 92-10-013 |
| 246-358-001 | AMD | 92-04-082 |
| 246-358-010 | AMD | 92-04-082 |
| 246-358-025 | AMD | 92-04-082 |
| 246-358-035 | AMD | 92-04-082 |
| 246-358-045 | AMD | 92-04-082 |
| 246-358-055 | AMD | 92-04-082 |
| 246-358-075 | AMD | 92-04-082 |
| 246-358-095 | AMD | 92-04-082 |
| 246-358-105 | AMD | 92-04-082 |
| 246-358-115 | AMD | 92-04-082 |
| 246-358-125 | AMD | 92-04-082 |
| 246-358-135 | AMD | 92-04-082 |
| 246-358-145 | AMD | 92-04-082 |
| 246-358-155 | AMD | 92-04-082 |
| 246-358-175 | AMD | 92-04-082 |
| 246-390-001 | NEW-P | 92-07-078 |
| 246-390-010 | NEW-P | 92-07-078 |
| 246-390-020 | NEW-P | 92-07-078 |
| 246-390-030 | NEW-P | 92-07-078 |
| 246-390-040 | NEW-P | 92-07-078 |
| 246-390-050 | NEW-P | 92-07-078 |
| 246-390-060 | NEW-P | 92-07-078 |
| 246-390-070 | NEW-P | 92-07-078 |
| 246-390-100 | NEW-P | 92-07-078 |
| 246-510-400 | NEW-P | 92-07-077 |
| 246-762-010 | AMD-P | 92-02-096 |
| 246-762-010 | AMD | 92-06-067 |
| 246-762-020 | AMD-P | 92-02-096 |
| 246-762-020 | AMD | 92-06-067 |
| 246-762-040 | AMD-P | 92-02-096 |
| 246-762-040 | AMD | 92-06-067 |
| 246-806-990 | AMD-P | 92-03-140 |
| 246-806-990 | AMD | 92-07-017 |
| 246-807-300 | AMD-E | 92-09-080 |
| 246-807-480 | NEW-P | 92-06-065 |
| 246-807-480 | NEW-E | 92-06-066 |
| 246-807-480 | NEW | 92-11-009 |
| 246-815-031 | AMD | 92-03-006 |
| 246-815-090 | AMD-P | 92-11-014 |
| 246-815-115 | NEW | 92-03-126 |
| 246-816-050 | AMD | 92-05-012 |
| 246-816-160 | NEW-P | 92-02-098 |
| 246-816-160 | NEW-W | 92-06-007 |
| 246-816-201 | AMD | 92-05-012 |
| 246-816-210 | AMD | 92-05-012 |
| 246-816-230 | AMD | 92-05-012 |
| 246-816-250 | AMD | 92-05-012 |
| 246-816-260 | AMD | 92-05-012 |
| 246-816-301 | AMD | 92-05-012 |
| 246-816-310 | AMD | 92-05-012 |
| 246-816-360 | AMD | 92-05-012 |
| 246-816-370 | AMD | 92-05-012 |
| 246-816-390 | AMD | 92-05-012 |
| 246-816-410 | AMD | 92-05-012 |
| 246-816-510 | AMD | 92-05-012 |
| 246-816-610 | NEW-W | 92-05-085 |
| 246-816-620 | NEW-W | 92-05-085 |
| 246-816-630 | NEW-W | 92-05-085 |
| 246-816-640 | NEW-W | 92-05-085 |
| 246-816-650 | NEW-W | 92-05-085 |
| 246-816-660 | NEW-W | 92-05-085 |
| 246-816-670 | NEW-W | 92-05-085 |
| 246-816-680 | NEW-W | 92-05-085 |
| 246-816-701 | NEW-W | 92-06-063 |
| 246-816-701 | NEW-P | 92-06-064 |
| 246-816-701 | NEW | 92-09-069 |
| 246-816-710 | NEW-W | 92-06-063 |
| 246-816-710 | NEW-P | 92-06-064 |
| 246-816-710 | NEW | 92-09-069 |
| 246-816-720 | NEW-W | 92-06-063 |
| 246-816-720 | NEW-P | 92-06-064 |
| 246-816-720 | NEW | 92-09-069 |
| 246-816-730 | NEW-W | 92-06-063 |
| 246-816-730 | NEW-P | 92-06-064 |
| 246-816-730 | NEW | 92-09-069 |
| 246-816-740 | NEW-W | 92-06-063 |
| 246-816-740 | NEW-P | 92-06-064 |
| 246-816-740 | NEW | 92-09-069 |
| 246-828-005 | NEW-W | 92-09-109 |
| 246-830-401 | AMD-P | 92-03-139 |
| 246-830-410 | AMD-P | 92-03-139 |
| 246-830-420 | AMD-P | 92-03-139 |
| 246-830-430 | AMD-P | 92-03-139 |
| 246-830-440 | AMD-P | 92-03-139 |
| 246-830-450 | AMD-P | 92-03-139 |
| 246-836-210 | NEW-P | 92-02-097 |
| 246-836-210 | NEW | 92-06-020 |
| 246-847-010 | AMD-P | 92-09-153 |
| 246-847-055 | NEW-P | 92-09-153 |
| 246-847-065 | AMD-P | 92-09-153 |
| 246-847-068 | NEW-P | 92-09-153 |
| 246-847-070 | AMD-P | 92-09-153 |
| 246-847-080 | AMD-P | 92-09-153 |
| 246-847-110 | AMD-P | 92-09-153 |
| 246-847-117 | NEW-P | 92-09-153 |
| 246-847-125 | NEW-P | 92-09-153 |
| 246-847-340 | NEW-P | 92-09-153 |
| 246-847-350 | NEW-P | 92-09-153 |
| 246-847-360 | NEW-P | 92-09-153 |
| 246-847-370 | NEW-P | 92-09-153 |
| 246-851-030 | REP-P | 92-02-095 |
| 246-851-030 | REP | 92-06-030 |
| 246-851-050 | REP-P | 92-02-095 |
| 246-851-050 | REP | 92-06-030 |
| 246-851-090 | AMD-P | 92-02-095 |
| 246-851-090 | AMD | 92-06-030 |
| 246-851-270 | PREP | 92-03-032 |
| 246-851-360 | PREP | 92-03-032 |
| 246-851-440 | NEW-P | 92-02-095 |
| 246-851-440 | NEW | 92-06-030 |
| 246-851-450 | NEW-P | 92-02-095 |
| 246-851-450 | NEW | 92-06-030 |
| 246-851-460 | NEW-P | 92-02-095 |
| 246-851-460 | NEW | 92-06-030 |
| 246-851-470 | NEW-P | 92-02-095 |
| 246-851-470 | NEW | 92-06-030 |
| 246-851-480 | NEW-P | 92-02-095 |
| 246-851-480 | NEW | 92-06-030 |
| 246-851-490 | NEW-P | 92-02-095 |
| 246-851-490 | NEW | 92-06-030 |
| 246-851-990 | AMD | 92-06-029 |
| 246-853-990 | AMD-P | 92-06-028 |
| 246-857-020 | AMD-P | 92-07-098 |
| 246-857-180 | AMD-P | 92-07-098 |
| 246-857-320 | AMD-P | 92-07-098 |
| 246-857-330 | AMD-P | 92-07-098 |
| 246-857-340 | AMD-P | 92-07-098 |
| 246-858-020 | AMD-P | 92-07-098 |
| 246-858-030 | AMD-P | 92-07-098 |
| 246-858-040 | AMD-P | 92-07-098 |
| 246-858-060 | AMD-P | 92-07-098 |
| 246-858-070 | AMD-P | 92-07-098 |
| 246-861-010 | NEW | 92-03-029 |
| 246-861-020 | AMD | 92-03-029 |
| 246-861-030 | AMD | 92-03-029 |
| 246-861-040 | AMD | 92-03-029 |
| 246-861-050 | AMD | 92-03-029 |
| 246-861-060 | AMD | 92-03-029 |
| 246-861-070 | REP | 92-03-029 |
| 246-861-080 | REP | 92-03-029 |
| 246-861-090 | AMD | 92-03-029 |
| 246-861-095 | NEW | 92-03-029 |
| 246-861-100 | REP | 92-03-029 |
| 246-861-110 | REP | 92-03-029 |
| 246-861-120 | AMD | 92-03-029 |
| 246-863-060 | AMD-P | 92-07-098 |
| 246-863-070 | AMD-P | 92-07-098 |
| 246-863-080 | AMD-P | 92-03-124 |
| 246-863-080 | AMD-P | 92-07-098 |
| 246-863-080 | AMD-W | 92-08-061 |
| 246-863-090 | AMD-P | 92-07-098 |
| 246-863-110 | AMD-P | 92-07-098 |
| 246-865-030 | AMD-P | 92-07-098 |
| 246-865-060 | AMD-P | 92-07-098 |
| 246-865-070 | AMD-P | 92-07-098 |
| 246-867-010 | AMD-P | 92-07-098 |
| 246-867-060 | AMD-P | 92-07-098 |
| 246-869-020 | AMD-P | 92-07-098 |
| 246-869-050 | AMD-P | 92-07-098 |
| 246-869-070 | AMD-P | 92-07-098 |
| 246-869-095 | NEW-P | 92-03-095 |
| 246-869-100 | AMD-P | 92-07-098 |
| 246-869-120 | AMD-P | 92-07-098 |
| 246-869-190 | AMD-P | 92-07-098 |
| 246-869-210 | AMD-P | 92-07-098 |
| 246-869-220 | AMD-P | 92-07-098 |
| 246-869-240 | AMD-P | 92-04-040 |
| 246-869-240 | AMD | 92-08-058 |
| 246-871-040 | AMD-P | 92-07-098 |
| 246-873-060 | AMD-P | 92-07-098 |
| 246-873-080 | AMD-P | 92-07-098 |
| 246-875-020 | AMD-P | 92-07-098 |
| 246-875-060 | AMD-P | 92-07-098 |
| 246-875-070 | AMD-P | 92-07-098 |
| 246-875-080 | AMD-P | 92-07-098 |
| 246-875-090 | REP-P | 92-07-098 |
| 246-879-010 | AMD-P | 92-10-070 |
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| 246-879-040 | AMD-W | 92-10-026 |
| 246-879-040 | AMD-P | 92-10-070 |
| 246-879-050 | AMD-P | 92-10-070 |
| 246-879-060 | AMD-P | 92-10-070 |
| 246-879-070 | AMD-P | 92-07-098 |
| 246-879-070 | AMD-W | 92-10-026 |
| 246-879-070 | AMD-P | 92-10-070 |
| 246-879-080 | AMD-P | 92-07-098 |
| 246-879-080 | AMD-W | 92-10-026 |
| 246-879-080 | AMD-P | 92-10-070 |
| 246-879-100 | NEW-P | 92-10-070 |
| 246-879-110 | NEW-P | 92-10-070 |
| 246-883-020 | AMD-P | 92-03-096 |
| 246-883-020 | AMD | 92-09-070 |
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| 246-883-025 | NEW | 92-09-072 |
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| 246-883-040 | AMD-P | 92-07-098 |
| 246-883-050 | NEW-P | 92-03-096 |
| 246-883-050 | NEW | 92-09-070 |
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| 246-886-030 | AMD-P | 92-07-098 |
| 246-886-060 | AMD-P | 92-07-098 |
| 246-887-020 | AMD | 92-04-029 |
| 246-887-040 | AMD | 92-04-029 |
| 246-887-050 | AMD-P | 92-07-098 |
| 246-887-060 | AMD-P | 92-07-098 |
| 246-887-070 | AMD-P | 92-07-098 |
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| 246-887-140 | AMD | 92-04-029 |
| 246-887-160 | AMD | 92-04-029 |
| 246-887-170 | AMD | 92-04-029 |
| 246-887-200 | AMD-P | 92-07-098 |
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| 246-887-210 | NEW | 92-09-071 |
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| 246-889-030 | AMD-P | 92-07-098 |
| 246-889-040 | AMD-P | 92-07-098 |
| 246-893-020 | AMD-P | 92-07-098 |
| 246-893-030 | AMD-P | 92-07-098 |
| 246-893-040 | AMD-P | 92-07-098 |
| 246-893-090 | AMD-P | 92-07-098 |
| 246-893-120 | AMD-P | 92-07-098 |
| 246-893-130 | AMD-P | 92-07-098 |
| 246-893-998 | AMD-P | 92-07-098 |
| 246-895-020 | AMD-P | 92-07-098 |
| 246-895-040 | AMD-P | 92-07-098 |
| 246-895-080 | AMD-P | 92-07-098 |
| 246-895-100 | AMD-P | 92-07-098 |
| 246-895-120 | AMD-P | 92-07-098 |
| 246-895-130 | AMD-P | 92-07-098 |
| 246-895-140 | AMD-P | 92-07-098 |
| 246-895-160 | AMD-P | 92-07-098 |
| 246-895-170 | AMD-P | 92-07-098 |
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| 246-897-050 | AMD-P | 92-07-098 |
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| 246-899-040 | AMD-P | 92-07-098 |
| 246-899-050 | AMD-P | 92-07-098 |
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| 246-903-010 | AMD-P | 92-07-098 |
| 246-907-020 | AMD-P | 92-03-124 |
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| 246-907-030 | AMD-P | 92-03-124 |
| 246-907-030 | AMD | 92-07-099 |
| 246-915-010 | AMD | 92-08-039 |
| 246-915-015 | AMD | 92-08-039 |
| 246-915-015 | REP-P | 92-08-111 |
| 246-915-030 | AMD-W | 92-08-110 |
| 246-915-030 | AMD-P | 92-08-111 |
| 246-915-075 | NEW-P | 92-08-111 |
| 246-915-120 | AMD | 92-08-039 |
| 246-915-150 | AMD | 92-08-039 |
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| 246-915-185 | NEW | 92-08-039 |
| 246-915-200 | AMD | 92-08-039 |
| 246-917-125 | NEW | 92-08-021 |
| 246-917-126 | NEW | 92-08-021 |
| 246-917-990 | AMD | 92-08-062 |
| 246-918-005 | NEW-P | 92-08-063 |
| 246-918-006 | NEW-P | 92-08-063 |
| 246-918-007 | NEW-P | 92-08-063 |
| 246-918-008 | NEW-P | 92-08-063 |
| 246-918-020 | REP-P | 92-08-063 |
| 246-918-030 | AMD-P | 92-08-063 |
| 246-918-035 | AMD-P | 92-08-063 |
| 246-918-040 | REP-P | 92-08-063 |
| 246-918-060 | REP-P | 92-08-063 |
| 246-918-090 | AMD-P | 92-08-063 |
| 246-918-100 | REP-P | 92-08-063 |
| 246-918-110 | AMD-P | 92-08-063 |
| 246-918-120 | AMD-P | 92-08-063 |
| 246-918-130 | AMD-P | 92-08-063 |
| 246-918-140 | AMD-P | 92-08-063 |
| 246-918-160 | AMD-P | 92-08-063 |
| 246-918-170 | AMD-P | 92-08-063 |
| 246-918-180 | AMD-P | 92-08-063 |
| 246-918-190 | REP-P | 92-08-063 |
| 246-918-200 | REP-P | 92-08-063 |
| 246-918-210 | REP-P | 92-08-063 |
| 246-918-220 | REP-P | 92-08-063 |
| 246-918-240 | REP-P | 92-08-063 |
| 246-918-250 | AMD-P | 92-08-063 |
| 246-918-260 | AMD-P | 92-08-063 |
| 246-918-270 | REP-P | 92-08-063 |
| 246-918-280 | REP-P | 92-08-063 |
| 246-918-290 | REP-P | 92-08-063 |
| 246-918-300 | REP-P | 92-08-063 |
| 246-918-320 | REP-P | 92-08-063 |
| 246-918-330 | REP-P | 92-08-063 |
| 246-918-340 | REP-P | 92-08-063 |
| 246-918-350 | REP-P | 92-08-063 |
| 246-918-360 | REP-P | 92-08-063 |
| 246-918-370 | REP-P | 92-08-063 |
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| 246-920-030 | RESCIND | 92-07-096 |
| 246-920-030 | AMD-E | 92-07-096 |
| 246-920-030 | AMD-P | 92-10-069 |
| 246-922-990 | AMD-P | 92-06-058 |
| 246-924-991 | NEW-E | 92-03-107 |
| 246-924-991 | NEW-P | 92-03-141 |
| 246-924-991 | NEW-W | 92-07-016 |
| 246-924-992 | NEW-E | 92-03-107 |
| 246-924-992 | NEW-P | 92-03-141 |
| 246-924-992 | NEW-W | 92-07-016 |
| 246-926-020 | AMD | 92-05-010 |
| 246-926-030 | AMD | 92-05-010 |
| 246-926-040 | AMD | 92-05-010 |
| 246-926-060 | AMD | 92-05-010 |
| 246-926-070 | AMD | 92-05-010 |
| 246-926-080 | AMD | 92-05-010 |
| 246-926-090 | AMD | 92-05-010 |
| 246-926-110 | AMD | 92-05-010 |
| 246-926-120 | AMD | 92-05-010 |
| 246-926-130 | AMD | 92-05-010 |
| 246-926-150 | AMD | 92-05-010 |
| 246-926-160 | AMD | 92-05-010 |
| 246-926-170 | AMD | 92-05-010 |
| 246-926-190 | AMD | 92-05-010 |
| 246-926-200 | AMD | 92-05-010 |
| 246-926-990 | AMD | 92-05-010 |
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| 246-928-085 | NEW-P | 92-10-071 |
| 246-928-990 | AMD-P | 92-10-071 |
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| 246-930-020 | AMD-P | 92-07-079 |
| 246-930-030 | AMD-P | 92-07-079 |
| 246-930-040 | AMD-P | 92-07-079 |
| 246-930-050 | AMD-P | 92-07-079 |
| 246-930-060 | AMD-P | 92-07-079 |
| 246-930-075 | AMD-P | 92-07-079 |
| 246-930-200 | AMD-P | 92-07-079 |
| 246-930-210 | AMD-P | 92-07-079 |
| 246-930-220 | AMD-P | 92-07-079 |
| 246-930-300 | AMD-P | 92-07-079 |
| 246-930-301 | AMD-P | 92-07-079 |
| 246-930-310 | AMD-P | 92-07-079 |
| 246-930-320 | AMD-P | 92-07-079 |
| 246-930-330 | AMD-P | 92-07-079 |
| 246-930-340 | AMD-P | 92-07-079 |
| 246-930-400 | AMD-P | 92-07-079 |
| 246-930-410 | NEW-P | 92-07-079 |
| 246-930-499 | AMD-P | 92-07-079 |
| 246-930-990 | AMD-P | 92-07-079 |
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| 246-933-280 | AMD | 92-03-074 |
| 246-933-300 | NEW | 92-03-074 |
| 246-933-305 | NEW | 92-03-074 |
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| 246-933-990 | AMD-P | 92-03-125 |
| 246-933-990 | AMD | 92-07-036 |
| 246-935-125 | NEW-P | 92-03-125 |
| 246-935-125 | NEW | 92-07-036 |
| 246-935-990 | AMD-P | 92-03-125 |
| 246-935-990 | AMD | 92-07-036 |
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| 248-14-250 | AMD-P | 92-03-015 |
| 248-14-250 | AMD | 92-08-074 |
| 248-14-285 | AMD-P | 92-03-015 |
| 248-14-285 | AMD | 92-08-074 |
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| 250-20-021 | AMD | 92-11-022 |
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| 250-25-020 | NEW | 92-03-002 |
| 250-25-030 | NEW | 92-03-002 |
| 250-25-040 | NEW | 92-03-002 |
| 250-25-045 | NEW | 92-03-002 |
| 250-25-050 | NEW | 92-03-002 |
| 250-25-060 | NEW | 92-03-002 |
| 250-25-070 | NEW | 92-03-002 |
| 250-25-080 | NEW | 92-03-002 |
| 250-25-090 | NEW | 92-03-002 |
| 250-67-010 | REP | 92-03-002 |
| 250-67-020 | REP | 92-03-002 |
| 250-67-030 | REP | 92-03-002 |
| 250-67-040 | REP | 92-03-002 |
| 250-67-050 | REP | 92-03-002 |
| 250-67-060 | REP | 92-03-002 |
| 250-68-001 | REP | 92-03-002 |
| 250-68-010 | REP | 92-03-002 |
| 250-68-020 | REP | 92-03-002 |
| 250-68-030 | REP | 92-03-002 |
| 250-68-035 | REP | 92-03-002 |
| 250-68-040 | REP | 92-03-002 |
| 250-68-050 | REP | 92-03-002 |
| 250-68-060 | REP | 92-03-002 |
| 250-68-070 | REP | 92-03-002 |
| 250-75-010 | REP | 92-03-002 |
| 250-75-020 | REP | 92-03-002 |
| 250-75-030 | REP | 92-03-002 |
| 250-75-040 | REP | 92-03-002 |
| 250-75-050 | REP | 92-03-002 |
| 250-75-060 | REP | 92-03-002 |
| 250-75-070 | REP | 92-03-002 |
| 250-75-080 | REP | 92-03-002 |
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| 251-01-120 | AMD-C | 92-05-026 |
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| 251-01-145 | AMD-W | 92-07-018 |
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| 251-01-147 | NEW-W | 92-07-018 |
| 251-01-147 | NEW-P | 92-09-120 |
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| 251-01-150 | AMD-W | 92-07-018 |
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| 251-01-255 | AMD-P | 92-05-072 |
| 251-01-255 | AMD-W | 92-07-019 |
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| 251-01-350 | AMD-W | 92-07-018 |
| 251-01-350 | AMD-P | 92-09-120 |
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| 251-01-395 | AMD-W | 92-03-079 |
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| 251-17-040 | AMD-W | 92-07-018 |
| 251-17-040 | AMD-P | 92-09-122 |
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| 251-17-060 | AMD-P | 92-09-122 |
| 251-17-070 | AMD-W | 92-07-018 |
| 251-17-070 | AMD-P | 92-09-122 |
| 251-17-090 | AMD-W | 92-07-018 |
| 251-17-110 | AMD-W | 92-07-018 |
| 251-17-120 | AMD-W | 92-07-018 |
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| 275-25-530 | AMD-E | 92-09-046 |
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| 275-27-020 | AMD | 92-09-115 |
| 275-27-026 | AMD | 92-04-004 |
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| 275-27-219 | NEW-E | 92-09-119 |
| 275-27-220 | AMD-P | 92-05-076 |
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| 275-27-220 | AMD | 92-09-114 |
| 275-27-223 | AMD-P | 92-05-076 |
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| 275-27-223 | AMD | 92-09-114 |
| 275-56-005 | AMD-P | 92-07-033 |
| 275-56-005 | AMD-E | 92-07-034 |
| 275-56-005 | AMD | 92-11-055 |
| 275-56-015 | AMD-P | 92-07-033 |
| 275-56-015 | AMD-E | 92-07-034 |
| 275-56-015 | AMD | 92-11-055 |
| 275-56-088 | AMD-P | 92-07-033 |
| 275-56-088 | AMD-E | 92-07-034 |
| 275-56-088 | AMD | 92-11-055 |
| 275-56-447 | NEW-E | 92-07-034 |
| 275-56-447 | NEW | 92-11-055 |
| 284-44-240 | NEW-P | 92-06-056 |
| 284-44-240 | NEW | 92-09-044 |
| 284-46-575 | NEW-P | 92-06-055 |
| 284-46-575 | NEW | 92-09-044A |
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| 284-66-020 | AMD | 92-06-021 |
| 284-66-030 | AMD | 92-06-021 |
| 284-66-040 | AMD | 92-06-021 |
| 284-66-050 | AMD | 92-06-021 |
| 284-66-060 | AMD | 92-06-021 |
| 284-66-063 | NEW | 92-06-021 |
| 284-66-066 | NEW | 92-06-021 |
| 284-66-070 | REP | 92-06-021 |
| 284-66-073 | NEW | 92-06-021 |
| 284-66-077 | NEW | 92-06-021 |
| 284-66-080 | AMD | 92-06-021 |
| 284-66-090 | REP | 92-06-021 |
| 284-66-092 | NEW | 92-06-021 |
| 284-66-100 | REP | 92-06-021 |
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| 284-66-130 | AMD | 92-06-021 |
| 284-66-140 | REP | 92-06-021 |
| 284-66-142 | NEW | 92-06-021 |
| 284-66-150 | REP | 92-06-021 |
| 284-66-160 | AMD | 92-06-021 |
| 284-66-170 | AMD | 92-06-021 |
| 284-66-180 | REP | 92-06-021 |
| 284-66-190 | REP | 92-06-021 |
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| 284-66-203 | NEW | 92-06-021 |
| 284-66-210 | AMD | 92-06-021 |
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| 284-66-260 | AMD | 92-06-021 |
| 284-66-270 | AMD | 92-06-021 |
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| 284-66-350 | AMD | 92-06-021 |
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| 296-17-895 | AMD-W | 92-06-034 |
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| 296-20-030 | RECSIND | 92-08-097 |
| 296-20-03001 | AMD-E | 92-07-100 |
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| 296-23-50001 | AMD | 92-05-041 |
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| 296-23-610 | RESCIND | 92-08-097 |
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| 296-30-081 | AMD-P | 92-11-071 |
| 296-46-910 | AMD-P | 92-03-136 |
| 296-46-910 | AMD | 92-08-102 |
| 296-46-910 | AMD-E | 92-08-103 |
| 296-46-915 | AMD-P | 92-03-136 |
| 296-46-915 | AMD | 92-08-102 |
| 296-46-915 | AMD-E | 92-08-103 |
| 296-62 | PREP | 92-03-135 |
| 296-62-08001 | NEW-P | 92-03-137 |
| 296-62-08001 | NEW | 92-08-100 |
| 296-62-08050 | NEW-P | 92-03-137 |
| 296-62-08050 | NEW | 92-08-100 |
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| 296-104-018 | NEW-P | 92-08-087 |
| 296-104-018 | NEW | 92-11-070 |
| 296-104-200 | AMD-P | 92-08-087 |
| 296-104-200 | AMD | 92-11-070 |
| 296-104-500 | AMD-P | 92-08-087 |
| 296-104-500 | AMD | 92-11-070 |
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| 296-104-501 | AMD | 92-11-070 |
| 296-104-530 | AMD-P | 92-08-087 |
| 296-104-530 | AMD | 92-11-070 |
| 296-116-075 | PREP | 92-07-075 |
| 296-116-080 | AMD-P | 92-08-049 |
| 296-116-080 | AMD-E | 92-08-053 |
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| 296-116-110 | AMD-E | 92-03-108 |
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| 296-116-185 | AMD-C | 92-11-035 |
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| 296-131-006 | NEW-P | 92-10-078 |
| 296-131-120 | AMD-P | 92-10-078 |
| 296-131-130 | AMD-P | 92-10-078 |
| 296-155-110 | AMD-P | 92-03-137 |
| 296-155-110 | AMD-C | 92-08-099 |
| 296-155-110 | AMD | 92-09-148 |
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| 296-306 | PREP | 92-11-072 |
| 296-401-175 | AMD-P | 92-03-136 |
| 296-401-175 | AMD | 92-09-010 |
| 296-401-175 | AMD-E | 92-09-011 |
| 304-12-030 | AMD-P | 92-04-076 |
| 304-12-030 | AMD | 92-08-023 |
| 306-01-010 | NEW-P | 92-11-064 |
| 306-01-020 | NEW-P | 92-11-064 |
| 306-01-030 | NEW-P | 92-11-064 |
| 306-01-040 | NEW-P | 92-11-064 |
| 306-01-050 | NEW-P | 92-11-064 |
| 306-01-060 | NEW-P | 92-11-064 |
| 306-01-070 | NEW-P | 92-11-064 |
| 306-01-080 | NEW-P | 92-11-064 |
| 308-10-005 | AMD-P | 92-05-088 |
| 308-10-005 | AMD | 92-09-107 |
| 308-10-010 | AMD-P | 92-05-088 |
| 308-10-010 | AMD | 92-09-107 |
| 308-10-015 | AMD-P | 92-05-088 |
| 308-10-015 | AMD | 92-09-107 |
| 308-10-020 | AMD-P | 92-05-088 |
| 308-10-020 | AMD | 92-09-107 |
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| 308-10-045 | AMD | 92-09-107 |
| 308-10-050 | AMD-P | 92-05-088 |
| 308-10-050 | AMD | 92-09-107 |
| 308-10-055 | AMD-P | 92-05-088 |
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| 308-10-070 | AMD-P | 92-05-088 |
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| 308-13-041 | REP | 92-10-030 |
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| 308-13-042 | REP | 92-10-030 |
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| 308-20-020 | AMD | 92-04-006 |
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| 308-20-060 | AMD | 92-04-006 |
| 308-20-070 | AMD | 92-04-006 |
| 308-20-080 | AMD | 92-04-006 |
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| 308-20-105 | AMD | 92-04-006 |
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| 308-20-110 | AMD | 92-04-006 |
| 308-20-120 | AMD | 92-04-006 |
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| 308-20-150 | AMD | 92-04-006 |
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| 308-20-520 | NEW-P | 92-10-079 |
| 308-20-530 | NEW-P | 92-10-079 |
| 308-20-540 | NEW-P | 92-10-079 |
| 308-20-545 | NEW-P | 92-10-079 |
| 308-20-550 | NEW-P | 92-10-079 |
| 308-20-560 | NEW-P | 92-10-079 |
| 308-20-570 | NEW-P | 92-10-079 |
| 308-20-590 | NEW-P | 92-10-079 |
| 308-20-600 | NEW-P | 92-10-079 |
| 308-20-610 | NEW-P | 92-10-079 |
| 308-20-630 | NEW-P | 92-10-079 |
| 308-20-640 | NEW-P | 92-10-079 |
| 308-20-670 | NEW-P | 92-10-079 |
| 308-20-680 | NEW-P | 92-10-079 |
| 308-20-690 | NEW-P | 92-10-079 |
| 308-20-700 | NEW-P | 92-10-079 |
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| 308-56A-040 | AMD-P | 92-11-048 |
| 308-56A-140 | AMD | 92-03-077 |
| 308-56A-250 | AMD-P | 92-11-048 |
| 308-56A-260 | REP-P | 92-11-048 |
| 308-56A-450 | AMD-P | 92-11-048 |
| 308-56A-455 | AMD-P | 92-11-048 |
| 308-56A-460 | AMD-P | 92-11-048 |
| 308-56A-465 | AMD-P | 92-11-048 |
| 308-56A-470 | NEW | 92-03-077 |
| 308-57-230 | AMD-P | 92-11-048 |
| 308-58-020 | AMD-P | 92-11-047 |
| 308-58-040 | AMD-P | 92-11-047 |
| 308-89-020 | AMD-P | 92-09-145 |
| 308-89-040 | AMD-P | 92-09-145 |
| 308-89-050 | AMD-P | 92-09-145 |
| 308-89-060 | NEW-P | 92-09-145 |
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| 308-93-050 | AMD | 92-03-075 |
| 308-93-070 | AMD | 92-03-075 |
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| 308-93-242 | NEW-P | 92-11-046 |
| 308-93-243 | NEW-P | 92-11-046 |
| 308-93-244 | NEW-P | 92-11-046 |
| 308-93-245 | NEW-P | 92-11-046 |
| 308-93-290 | AMD | 92-03-075 |
| 308-93-295 | AMD | 92-06-009 |
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| 308-94-080 | AMD-P | 92-11-049 |
| 308-94-200 | AMD-P | 92-11-049 |
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| 308-96A-005 | AMD-P | 92-11-050 |
| 308-96A-026 | AMD-P | 92-11-050 |
| 308-96A-035 | AMD-P | 92-11-050 |
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| 308-96A-046 | AMD | 92-02-100 |
| 308-96A-100 | AMD | 92-03-076 |
| 308-96A-136 | AMD | 92-02-100 |
| 308-96A-161 | AMD-P | 92-11-050 |
| 308-96A-162 | AMD-P | 92-11-050 |
| 308-96A-201 | NEW | 92-02-100 |
| 308-96A-205 | AMD | 92-02-100 |
| 308-96A-206 | NEW | 92-02-100 |
| 308-96A-207 | NEW | 92-02-100 |
| 308-96A-208 | NEW | 92-02-100 |
| 308-96A-210 | AMD | 92-02-100 |
| 308-96A-220 | AMD | 92-02-100 |
| 308-96A-260 | AMD | 92-02-100 |
| 308-96A-275 | AMD | 92-02-100 |
| 308-96A-275 | AMD-P | 92-11-050 |
| 308-96A-300 | AMD | 92-02-100 |
| 308-96A-306 | AMD | 92-03-076 |
| 308-96A-310 | AMD | 92-03-076 |
| 308-96A-315 | AMD | 92-03-076 |
| 308-96A-320 | AMD | 92-03-076 |
| 308-96A-325 | AMD | 92-03-076 |
| 308-96A-330 | AMD | 92-03-076 |
| 308-96A-335 | AMD | 92-03-076 |
| 308-96A-340 | NEW | 92-03-076 |
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| 308-102-002 | NEW | 92-08-045 |
| 308-102-004 | NEW-P | 92-05-061 |
| 308-102-004 | NEW | 92-08-045 |
| 308-102-006 | NEW-P | 92-05-061 |
| 308-102-006 | NEW | 92-08-045 |
| 308-102-008 | NEW-P | 92-05-061 |
| 308-102-008 | NEW | 92-08-045 |
| 308-102-010 | AMD-P | 92-05-061 |
| 308-102-010 | AMD | 92-08-045 |
| 308-102-011 | AMD-P | 92-05-061 |
| 308-102-011 | AMD | 92-08-045 |
| 308-102-020 | AMD-P | 92-05-061 |
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| 308-102-040 | REP-P | 92-05-061 |
| 308-102-040 | REP | 92-08-045 |
| 308-102-100 | AMD-P | 92-05-061 |
| 308-102-100 | AMD | 92-08-045 |
| 308-102-110 | REP-P | 92-05-061 |
| 308-102-110 | REP | 92-08-045 |
| 308-102-120 | REP-P | 92-05-061 |
| 308-102-120 | REP | 92-08-045 |
| 308-102-125 | REP-P | 92-05-061 |
| 308-102-125 | REP | 92-08-045 |
| 308-102-130 | AMD-P | 92-05-061 |
| 308-102-130 | AMD | 92-08-045 |
| 308-102-140 | AMD-P | 92-05-061 |
| 308-102-140 | AMD | 92-08-045 |
| 308-102-150 | REP-P | 92-05-061 |
| 308-102-150 | REP | 92-08-045 |
| 308-102-160 | REP-P | 92-05-061 |
| 308-102-160 | REP | 92-08-045 |
| 308-102-170 | REP-P | 92-05-061 |
| 308-102-170 | REP | 92-08-045 |
| 308-102-180 | REP-P | 92-05-061 |
| 308-102-180 | REP | 92-08-045 |
| 308-102-190 | AMD-P | 92-05-061 |
| 308-102-190 | AMD | 92-08-045 |
| 308-102-200 | AMD-P | 92-05-061 |
| 308-102-200 | AMD | 92-08-045 |
| 308-102-210 | REP-P | 92-05-061 |
| 308-102-210 | REP | 92-08-045 |
| 308-102-220 | REP-P | 92-05-061 |
| 308-102-220 | REP | 92-08-045 |
| 308-102-230 | REP-P | 92-05-061 |
| 308-102-230 | REP | 92-08-045 |
| 308-102-240 | REP-P | 92-05-061 |
| 308-102-240 | REP | 92-08-045 |
| 308-102-250 | AMD-P | 92-05-061 |
| 308-102-250 | AMD | 92-08-045 |
| 308-102-255 | NEW-P | 92-05-061 |
| 308-102-255 | NEW | 92-08-045 |
| 308-102-260 | AMD-P | 92-05-061 |
| 308-102-260 | AMD | 92-08-045 |
| 308-102-265 | AMD-P | 92-05-061 |
| 308-102-265 | AMD | 92-08-045 |
| 308-102-270 | REP-P | 92-05-061 |
| 308-102-270 | REP | 92-08-045 |
| 308-102-280 | REP-P | 92-05-061 |
| 308-102-280 | REP | 92-08-045 |
| 308-102-290 | AMD-P | 92-05-061 |
| 308-102-290 | AMD | 92-08-045 |
| 308-102-295 | REP-P | 92-05-061 |
| 308-102-295 | REP | 92-08-045 |
| 308-104-160 | AMD-P | 92-05-061 |
| 308-104-160 | AMD | 92-08-045 |
| 308-104-340 | NEW-P | 92-05-061 |
| 308-104-340 | NEW | 92-08-045 |
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| 308-300-220 | AMD | 92-10-010 |
| 308-300-230 | AMD-P | 92-07-095 |
| 308-300-230 | AMD | 92-10-010 |
| 308-300-240 | AMD-P | 92-07-095 |
| 308-300-240 | AMD | 92-10-010 |
| 308-300-250 | AMD-P | 92-07-095 |
| 308-300-250 | AMD | 92-10-010 |
| 308-300-270 | AMD-P | 92-07-095 |
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| 308-300-280 | AMD-P | 92-07-095 |
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| 314-12-090 | REP-P | 92-08-084 |
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| 314-16-196 | AMD-P | 92-08-088 |
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| 314-20-070 | AMD-P | 92-09-143 |
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| 314-60-040 | AMD-P | 92-09-142 |
| 315-11-691 | AMD | 92-03-048 |
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| 315-11-711 | NEW | 92-03-048 |
| 315-11-712 | NEW | 92-03-048 |
| 315-11-730 | NEW | 92-03-048 |
| 315-11-731 | NEW | 92-03-048 |
| 315-11-732 | NEW | 92-03-048 |
| 315-11-740 | NEW | 92-03-048 |
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| 315-11-751 | NEW-P | 92-03-146 |
| 315-11-751 | NEW-W | 92-05-069 |
| 315-11-752 | NEW-P | 92-03-146 |
| 315-11-752 | NEW-W | 92-05-069 |
| 315-11-753 | NEW | 92-08-002 |
| 315-11-754 | NEW | 92-08-002 |
| 315-11-755 | NEW | 92-08-002 |
| 315-11-760 | NEW-P | 92-03-146 |
| 315-11-760 | NEW | 92-08-002 |
| 315-11-761 | NEW-P | 92-03-146 |
| 315-11-761 | NEW | 92-08-002 |
| 315-11-762 | NEW-P | 92-03-146 |
| 315-11-762 | NEW | 92-08-002 |
| 315-11-770 | NEW-P | 92-03-146 |
| 315-11-770 | NEW-P | 92-08-093 |
| 315-11-770 | NEW | 92-11-033 |
| 315-11-771 | NEW-P | 92-03-146 |
| 315-11-771 | NEW-P | 92-08-093 |
| 315-11-771 | NEW | 92-11-033 |
| 315-11-772 | NEW-P | 92-03-146 |
| 315-11-772 | NEW-P | 92-08-093 |
| 315-11-772 | NEW | 92-11-033 |
| 315-11-780 | NEW-P | 92-08-093 |
| 315-11-780 | NEW | 92-11-033 |
| 315-11-781 | NEW-P | 92-08-093 |
| 315-11-781 | NEW | 92-11-033 |
| 315-11-782 | NEW-P | 92-08-093 |
| 315-11-782 | NEW | 92-11-033 |
| 315-11-790 | NEW-P | 92-08-093 |
| 315-11-790 | NEW | 92-11-033 |
| 315-11-791 | NEW-P | 92-08-093 |
| 315-11-791 | NEW | 92-11-033 |
| 315-11-792 | NEW-P | 92-08-093 |
| 315-11-792 | NEW | 92-11-033 |
| 315-11-800 | NEW-P | 92-08-093 |
| 315-11-800 | NEW | 92-11-033 |
| 315-11-801 | NEW-P | 92-08-093 |
| 315-11-801 | NEW | 92-11-033 |
| 315-11-802 | NEW-P | 92-08-093 |
| 315-11-802 | NEW | 92-11-033 |
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| 315-30-020 | AMD | 92-11-033 |
| 315-30-030 | AMD-P | 92-08-093 |
| 315-30-030 | AMD | 92-11-033 |
| 315-30-040 | AMD-P | 92-08-093 |
| 315-30-040 | AMD | 92-11-033 |
| 315-31-060 | AMD-P | 92-08-093 |
| 315-31-060 | AMD-W | 92-11-010 |
| 315-33A-010 | AMD-P | 92-08-093 |
| 315-33A-010 | AMD | 92-11-033 |
| 315-33A-020 | AMD-P | 92-08-093 |
| 315-33A-020 | AMD | 92-11-033 |
| 315-33B-010 | NEW-P | 92-03-146 |
| 315-33B-010 | NEW | 92-08-002 |
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| 315-33B-020 | NEW | 92-08-002 |
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| 315-33B-030 | NEW | 92-08-002 |
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| 315-40-030 | NEW | 92-03-048 |
| 315-40-040 | NEW | 92-03-048 |
| 315-40-050 | NEW | 92-03-048 |
| 315-40-060 | NEW | 92-03-048 |
| 315-40-070 | NEW | 92-03-048 |
| 315-40-080 | NEW | 92-03-048 |
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| 326-02-010 | AMD | 92-11-007 |
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| 326-02-020 | RESCIND | 92-07-102 |
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| 326-02-020 | AMD | 92-11-007 |
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| 326-02-060 | RESCIND | 92-07-102 |
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| 326-08-100 | AMD-E | 92-11-019 |
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| 326-08-110 | AMD-E | 92-11-019 |
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| 326-08-130 | AMD-E | 92-11-019 |
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| 326-08-140 | NEW-P | 92-11-018 |
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| 326-20-010 | AMD-P | 92-07-103 |
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| 326-20-091 | RESCIND | 92-07-102 |
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| 326-20-095 | AMD | 92-11-007 |
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| 326-20-097 | RESCIND | 92-07-102 |
| 326-20-097 | REP-E | 92-07-102 |
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| 326-20-098 | AMD-E | 92-07-001 |
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| 326-20-120 | AMD | 92-11-007 |
| 326-20-130 | AMD-E | 92-07-001 |
| 326-20-130 | RESCIND | 92-07-102 |
| 326-20-130 | AMD-E | 92-07-102 |
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| 326-20-140 | RESCIND | 92-07-102 |
| 326-20-140 | AMD-E | 92-07-102 |
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| 326-20-171 | AMD-E | 92-07-102 |
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| 392-141-130 | AMD-P | 92-04-009 |
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| 392-141-145 | AMD-P | 92-04-009 |
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| 392-141-146 | NEW-P | 92-04-009 |
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| 392-141-158 | NEW-P | 92-04-009 |
| 392-141-158 | NEW | 92-08-024 |
| 392-141-160 | AMD-P | 92-04-009 |
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| 392-141-165 | AMD-P | 92-04-009 |
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| 392-141-170 | AMD-P | 92-04-009 |
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| 392-141-175 | AMD-P | 92-04-009 |
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| 392-141-185 | AMD-P | 92-04-009 |
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| 392-141-195 | AMD-P | 92-04-009 |
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| 392-153-014 | NEW | 92-03-138 |
| 392-153-015 | AMD | 92-03-138 |
| 392-153-032 | AMD | 92-03-138 |
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| 392-163-110 | AMD-P | 92-10-062 |
| 392-163-115 | AMD-P | 92-10-062 |
| 392-163-120 | AMD-P | 92-10-062 |
| 392-163-125 | AMD-P | 92-10-062 |
| 392-163-130 | AMD-P | 92-10-062 |
| 392-163-135 | AMD-P | 92-10-062 |
| 392-163-140 | AMD-P | 92-10-062 |
| 392-163-145 | AMD-P | 92-10-062 |
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| 392-163-155 | NEW-P | 92-10-062 |
| 392-163-160 | NEW-P | 92-10-062 |
| 392-163-165 | NEW-P | 92-10-062 |
| 392-163-170 | AMD-P | 92-10-062 |
| 392-163-175 | AMD-P | 92-10-062 |
| 392-163-180 | AMD-P | 92-10-062 |
| 392-163-185 | AMD-P | 92-10-062 |
| 392-163-190 | AMD-P | 92-10-062 |
| 392-163-195 | AMD-P | 92-10-062 |
| 392-163-200 | AMD-P | 92-10-062 |
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| 392-163-210 | AMD-P | 92-10-062 |
| 392-163-215 | AMD-P | 92-10-062 |
| 392-163-220 | AMD-P | 92-10-062 |
| 392-163-225 | AMD-P | 92-10-062 |
| 392-163-230 | AMD-P | 92-10-062 |
| 392-163-235 | AMD-P | 92-10-062 |

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| 392-163-280 | AMD-P | 92-10-062 |
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| 392-163-295 | NEW-P | 92-10-062 |
| 392-163-300 | AMD-P | 92-10-062 |
| 392-163-305 | AMD-P | 92-10-062 |
| 392-163-310 | AMD-P | 92-10-062 |
| 392-163-315 | AMD-P | 92-10-062 |
| 392-163-320 | AMD-P | 92-10-062 |
| 392-163-325 | AMD-P | 92-10-062 |
| 392-163-400 | AMD-P | 92-10-062 |
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| 392-163-410 | AMD-P | 92-10-062 |
| 392-163-415 | AMD-P | 92-10-062 |
| 392-163-420 | AMD-P | 92-10-062 |
| 392-163-425 | AMD-P | 92-10-062 |
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| 392-163-595 | NEW-P | 92-10-062 |
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| 392-163-610 | NEW-P | 92-10-062 |
| 392-163-615 | NEW-P | 92-10-062 |
| 392-163-620 | NEW-P | 92-10-062 |
| 392-163-625 | NEW-P | 92-10-062 |
| 392-163-630 | NEW-P | 92-10-062 |
| 392-163-635 | NEW-P | 92-10-062 |
| 392-163-640 | NEW-P | 92-10-062 |
| 392-163-645 | NEW-P | 92-10-062 |
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| 392-165-130 | AMD-P | 92-11-028 |
| 392-165-170 | AMD-P | 92-11-028 |
| 392-165-240 | REP-P | 92-11-028 |
| 392-165-260 | AMD-P | 92-11-028 |
| 392-165-304 | AMD-P | 92-11-028 |
| 392-165-310 | AMD-P | 92-11-028 |
| 392-165-320 | AMD-P | 92-11-028 |
| 392-165-322 | AMD-P | 92-11-028 |
| 392-165-325 | AMD-P | 92-11-028 |
| 392-165-327 | REP-P | 92-11-028 |
| 392-165-330 | AMD-P | 92-11-028 |
| 392-165-332 | REP-P | 92-11-028 |
| 392-165-340 | AMD-P | 92-11-028 |
| 392-165-342 | REP-P | 92-11-028 |
| 392-165-345 | AMD-P | 92-11-028 |
| 392-165-347 | NEW-P | 92-11-028 |
| 392-165-360 | AMD-P | 92-11-028 |
| 392-165-362 | NEW-P | 92-11-028 |
| 392-165-415 | NEW-P | 92-11-028 |
| 392-165-420 | NEW-P | 92-11-028 |
| 392-165-425 | AMD-P | 92-11-028 |
| 392-165-430 | AMD-P | 92-11-028 |
| 392-165-460 | AMD-P | 92-11-028 |
| 392-165-500 | AMD-P | 92-11-028 |
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| 392-196-080 | AMD | 92-05-068 |
| 392-196-085 | AMD | 92-05-068 |
| 392-196-090 | REP | 92-05-068 |
| 392-196-100 | AMD | 92-05-068 |
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| 392-202-115 | AMD-W | 92-03-063 |
| 392-202-120 | AMD-W | 92-03-063 |
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| 399-30-040 | AMD | 92-03-052 |
| 399-30-042 | AMD | 92-03-052 |
| 399-30-045 | AMD | 92-03-052 |
| 399-30-050 | AMD | 92-03-052 |
| 399-30-060 | AMD | 92-03-052 |
| 399-30-065 | AMD | 92-03-052 |
| 399-40-020 | AMD | 92-03-051 |
| 415-108-670 | NEW-E | 92-11-027 |
| 415-112-560 | NEW-E | 92-11-027 |
| 415-115-080 | AMD-E | 92-11-027 |
| 415-115-110 | REP-E | 92-11-027 |
| 434-28-012 | AMD-S | 92-09-112 |
| 434-28-020 | AMD-S | 92-09-112 |
| 434-28-050 | NEW-S | 92-09-112 |
| 434-28-060 | NEW-S | 92-09-112 |
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| 434-30-210 | NEW | 92-10-038 |
| 434-30-220 | NEW | 92-10-038 |
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| 434-34-020 | NEW-S | 92-09-112 |
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| 434-34-035 | NEW-S | 92-09-112 |
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| 434-34-095 | NEW-S | 92-09-112 |
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| 434-34-110 | NEW-S | 92-09-112 |
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| 434-53-240 | NEW-S | 92-09-112 |
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| 434-53-260 | NEW-S | 92-09-112 |
| 434-53-270 | NEW-S | 92-09-112 |
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| 434-53-310 | NEW-S | 92-09-112 |
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| 434-62-160 | NEW-S | 92-09-112 |
| 434-62-170 | NEW-S | 92-09-112 |
| 434-62-180 | NEW-S | 92-09-112 |
| 434-62-190 | NEW-S | 92-09-112 |
| 434-62-200 | NEW-S | 92-09-112 |
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| 434-166-010 | NEW | 92-10-023 |
| 434-166-020 | NEW-E | 92-02-103 |
| 434-166-020 | NEW-P | 92-02-104 |
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| 434-166-030 | NEW-E | 92-02-103 |
| 434-166-030 | NEW-P | 92-02-104 |
| 434-166-030 | NEW | 92-10-023 |
| 434-166-040 | NEW-E | 92-02-103 |
| 434-166-040 | NEW-P | 92-02-104 |
| 434-166-040 | NEW | 92-10-023 |
| 434-166-050 | NEW-E | 92-02-103 |
| 434-166-050 | NEW-P | 92-02-104 |

# Table of WAC Sections Affected

| WAC # | | WSR # |
|---|---|---|
| 434-166-050 | NEW | 92-10-023 |
| 434-166-060 | NEW-E | 92-02-103 |
| 434-166-060 | NEW-P | 92-02-104 |
| 434-166-060 | NEW | 92-10-023 |
| 434-166-070 | NEW-E | 92-02-103 |
| 434-166-070 | NEW-P | 92-02-104 |
| 434-166-070 | NEW | 92-10-023 |
| 434-166-080 | NEW-E | 92-02-103 |
| 434-166-080 | NEW-P | 92-02-104 |
| 434-166-080 | NEW | 92-10-023 |
| 434-166-090 | NEW-E | 92-02-103 |
| 434-166-090 | NEW-P | 92-02-104 |
| 434-166-090 | NEW | 92-10-023 |
| 434-166-100 | NEW-E | 92-02-103 |
| 434-166-100 | NEW-P | 92-02-104 |
| 434-166-100 | NEW | 92-10-023 |
| 434-166-110 | NEW-E | 92-02-103 |
| 434-166-110 | NEW-P | 92-02-104 |
| 434-166-110 | NEW | 92-10-023 |
| 434-166-120 | NEW-E | 92-02-103 |
| 434-166-120 | NEW-P | 92-02-104 |
| 434-166-120 | NEW | 92-10-023 |
| 434-166-130 | NEW-E | 92-02-103 |
| 434-166-130 | NEW-P | 92-02-104 |
| 434-166-130 | NEW | 92-10-023 |
| 434-166-140 | NEW-E | 92-02-103 |
| 434-166-140 | NEW-P | 92-02-104 |
| 434-166-140 | NEW | 92-10-023 |
| 434-166-150 | NEW-E | 92-02-103 |
| 434-166-150 | NEW-P | 92-02-104 |
| 434-166-150 | NEW | 92-10-023 |
| 434-166-160 | NEW-E | 92-02-103 |
| 434-166-160 | NEW-P | 92-02-104 |
| 434-166-160 | NEW | 92-10-023 |
| 434-166-170 | NEW-E | 92-02-103 |
| 434-166-170 | NEW-P | 92-02-104 |
| 434-166-170 | NEW | 92-10-023 |
| 434-166-180 | NEW-E | 92-02-103 |
| 434-166-180 | NEW-P | 92-02-104 |
| 434-166-180 | NEW | 92-10-023 |
| 434-166-190 | NEW-E | 92-02-103 |
| 434-166-190 | NEW-P | 92-02-104 |
| 434-166-190 | NEW | 92-10-023 |
| 434-166-200 | NEW-E | 92-02-103 |
| 434-166-200 | NEW-P | 92-02-104 |
| 434-166-200 | NEW | 92-10-023 |
| 434-166-210 | NEW-E | 92-02-103 |
| 434-166-210 | NEW-P | 92-02-104 |
| 434-166-210 | NEW | 92-10-023 |
| 434-166-220 | NEW-E | 92-02-103 |
| 434-166-220 | NEW-P | 92-02-104 |
| 434-166-220 | NEW | 92-10-023 |
| 434-166-230 | NEW-E | 92-02-103 |
| 434-166-230 | NEW-P | 92-02-104 |
| 434-166-230 | NEW | 92-10-023 |
| 434-166-240 | NEW-E | 92-02-103 |
| 434-166-240 | NEW-P | 92-02-104 |
| 434-166-240 | NEW | 92-10-023 |
| 434-166-250 | NEW-E | 92-02-103 |
| 434-166-250 | NEW-P | 92-02-104 |
| 434-166-250 | NEW | 92-10-023 |
| 434-166-260 | NEW-E | 92-02-103 |
| 434-166-260 | NEW-P | 92-02-104 |
| 434-166-260 | NEW | 92-10-023 |
| 434-166-270 | NEW-E | 92-02-103 |
| 434-166-270 | NEW-P | 92-02-104 |
| 434-166-270 | NEW | 92-10-023 |
| 434-166-280 | NEW-E | 92-02-103 |
| 434-166-280 | NEW-P | 92-02-104 |
| 434-166-280 | NEW | 92-10-023 |
| 434-166-290 | NEW-E | 92-02-103 |
| 434-166-290 | NEW-P | 92-02-104 |
| 434-166-290 | NEW | 92-10-023 |
| 434-166-300 | NEW-E | 92-02-103 |
| 434-166-300 | NEW-P | 92-02-104 |
| 434-166-300 | NEW | 92-10-023 |
| 434-166-310 | NEW-E | 92-02-103 |
| 434-166-310 | NEW-P | 92-02-104 |
| 434-166-310 | NEW | 92-10-023 |
| 434-166-320 | NEW-E | 92-02-103 |
| 434-166-320 | NEW-P | 92-02-104 |
| 434-166-320 | NEW | 92-10-023 |
| 434-166-330 | NEW-E | 92-02-103 |
| 434-166-330 | NEW-P | 92-02-104 |
| 434-166-330 | NEW | 92-10-023 |
| 434-166-340 | NEW-E | 92-02-103 |
| 434-166-340 | NEW-P | 92-02-104 |
| 434-166-340 | NEW | 92-10-023 |
| 434-166-350 | NEW-E | 92-02-103 |
| 434-166-350 | NEW-P | 92-02-104 |
| 434-166-350 | NEW | 92-10-023 |
| 434-166-360 | NEW-E | 92-02-103 |
| 434-166-360 | NEW-P | 92-02-104 |
| 434-630-010 | NEW-P | 92-09-017 |
| 434-630-020 | NEW-P | 92-09-017 |
| 434-630-030 | NEW-P | 92-09-017 |
| 434-630-040 | NEW-P | 92-09-017 |
| 434-630-050 | NEW-P | 92-09-017 |
| 434-630-060 | NEW-P | 92-09-017 |
| 434-635-010 | NEW-P | 92-09-018 |
| 434-635-020 | NEW-P | 92-09-018 |
| 434-635-030 | NEW-P | 92-09-018 |
| 434-635-040 | NEW-P | 92-09-018 |
| 434-635-050 | NEW-P | 92-09-018 |
| 434-635-060 | NEW-P | 92-09-018 |
| 434-640-010 | NEW | 92-05-060 |
| 434-640-020 | NEW | 92-05-060 |
| 434-640-030 | NEW | 92-05-060 |
| 434-677-010 | NEW-P | 92-04-026 |
| 434-677-010 | NEW | 92-08-020 |
| 434-677-020 | NEW-P | 92-04-026 |
| 434-677-020 | NEW | 92-08-020 |
| 434-677-030 | NEW-P | 92-04-026 |
| 434-677-030 | NEW | 92-08-020 |
| 434-677-040 | NEW-P | 92-04-026 |
| 434-677-040 | NEW | 92-08-020 |
| 434-677-050 | NEW-P | 92-04-026 |
| 434-677-050 | NEW | 92-08-020 |
| 434-677-060 | NEW-P | 92-04-026 |
| 434-677-060 | NEW | 92-08-020 |
| 434-677-070 | NEW-P | 92-04-026 |
| 434-677-070 | NEW | 92-08-020 |
| 434-677-080 | NEW-P | 92-04-026 |
| 434-677-080 | NEW | 92-08-020 |
| 446-16-025 | AMD-P | 92-11-051 |
| 446-16-030 | AMD-P | 92-11-051 |
| 446-16-080 | AMD-P | 92-11-051 |
| 446-16-090 | AMD-P | 92-11-051 |
| 446-20-285 | AMD-P | 92-11-052 |
| 446-20-290 | AMD-P | 92-11-052 |
| 446-20-300 | AMD-P | 92-11-052 |
| 446-20-420 | AMD-P | 92-11-052 |
| 446-20-440 | AMD-P | 92-11-052 |
| 446-20-520 | AMD-P | 92-11-052 |
| 458-16-013 | PREP | 92-04-069 |
| 458-16-013 | AMD-P | 92-04-079 |
| 458-16-013 | AMD-E | 92-06-039 |
| 458-16-020 | PREP | 92-04-069 |
| 458-16-020 | AMD-P | 92-04-079 |
| 458-16-020 | AMD-E | 92-06-039 |
| 458-18-010 | PREP | 92-04-068 |
| 458-18-010 | AMD-P | 92-04-078 |
| 458-18-010 | AMD-E | 92-06-038 |
| 458-18-020 | PREP | 92-04-068 |
| 458-18-020 | AMD-P | 92-04-078 |
| 458-18-020 | AMD-E | 92-06-038 |
| 458-20-105 | AMD-P | 92-03-066 |
| 458-20-105 | AMD | 92-06-082 |
| 458-20-132 | AMD | 92-05-066 |
| 458-20-164 | AMD-P | 92-03-067 |
| 458-20-166 | AMD | 92-05-064 |
| 458-20-18601 | NEW-P | 92-03-065 |
| 458-20-18601 | NEW | 92-06-081 |
| 458-20-18801 | AMD | 92-05-065 |
| 458-20-199 | AMD | 92-03-026 |
| 458-20-228 | AMD | 92-03-025 |
| 458-20-229 | AMD-P | 92-05-017 |
| 458-20-260 | NEW-E | 92-04-015 |
| 458-20-260 | PREP | 92-05-052 |
| 458-20-260 | NEW-P | 92-07-092 |
| 458-20-260 | NEW | 92-10-006 |
| 458-30-262 | AMD | 92-03-068 |
| 458-40-615 | NEW-E | 92-08-018 |
| 458-40-615 | PREP | 92-10-060 |
| 458-40-650 | AMD-E | 92-06-040 |
| 458-40-650 | AMD-E | 92-06-057 |
| 458-40-650 | AMD-P | 92-10-061 |
| 458-40-660 | PREP | 92-06-037 |
| 458-40-660 | AMD-E | 92-06-040 |
| 458-40-660 | AMD-E | 92-06-057 |
| 458-40-660 | AMD-P | 92-10-061 |
| 458-40-670 | PREP | 92-06-037 |
| 458-40-670 | AMD-E | 92-06-040 |
| 458-40-670 | AMD-E | 92-06-057 |
| 458-40-670 | AMD-P | 92-10-061 |
| 458-40-684 | AMD-P | 92-10-061 |
| 463-06-020 | AMD-P | 92-02-099 |
| 463-06-020 | AMD | 92-09-013 |
| 463-06-030 | AMD-P | 92-02-099 |
| 463-06-030 | AMD | 92-09-013 |
| 463-06-040 | AMD-P | 92-02-099 |
| 463-06-040 | AMD | 92-09-013 |
| 463-06-050 | AMD-P | 92-02-099 |
| 463-06-050 | AMD | 92-09-013 |
| 463-06-070 | AMD-P | 92-02-099 |
| 463-06-070 | AMD | 92-09-013 |
| 463-06-150 | AMD-P | 92-02-099 |
| 463-06-150 | AMD | 92-09-013 |
| 463-26-030 | REP-P | 92-02-099 |
| 463-26-030 | REP | 92-09-013 |
| 463-39-005 | NEW-P | 92-02-099 |
| 463-39-005 | NEW | 92-09-013 |
| 463-39-010 | AMD-P | 92-02-099 |
| 463-39-010 | AMD | 92-09-013 |
| 463-39-030 | AMD-P | 92-02-099 |
| 463-39-030 | AMD | 92-09-013 |
| 463-39-040 | REP-P | 92-02-099 |
| 463-39-040 | REP | 92-09-013 |
| 463-39-050 | REP-P | 92-02-099 |
| 463-39-050 | REP | 92-09-013 |
| 463-39-060 | REP-P | 92-02-099 |
| 463-39-060 | REP | 92-09-013 |
| 463-39-080 | REP-P | 92-02-099 |
| 463-39-080 | REP | 92-09-013 |
| 463-39-110 | REP-P | 92-02-099 |
| 463-39-110 | REP | 92-09-013 |
| 463-39-115 | AMD-P | 92-02-099 |
| 463-39-115 | AMD | 92-09-013 |
| 463-39-120 | AMD-P | 92-02-099 |
| 463-39-120 | AMD | 92-09-013 |
| 463-39-150 | REP-P | 92-02-099 |
| 463-39-150 | REP | 92-09-013 |
| 463-42-055 | AMD-P | 92-02-099 |
| 463-42-055 | AMD | 92-09-013 |
| 463-42-165 | AMD-P | 92-02-099 |
| 463-42-165 | AMD | 92-09-013 |
| 463-42-195 | AMD-P | 92-02-099 |
| 463-42-195 | AMD | 92-09-013 |
| 463-42-225 | AMD-P | 92-02-099 |
| 463-42-225 | AMD | 92-09-013 |
| 463-42-265 | AMD-P | 92-02-099 |
| 463-42-265 | AMD | 92-09-013 |
| 463-42-345 | AMD-P | 92-02-099 |
| 463-42-345 | AMD | 92-09-013 |
| 463-42-445 | AMD-P | 92-02-099 |
| 463-42-445 | AMD | 92-09-013 |
| 463-42-455 | AMD-P | 92-02-099 |
| 463-42-455 | AMD | 92-09-013 |
| 463-42-465 | AMD-P | 92-02-099 |
| 463-42-465 | AMD | 92-09-013 |
| 463-42-595 | AMD-P | 92-02-099 |

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| WAC # | | WSR # |
|---|---|---|
| 463-42-595 | AMD | 92-09-013 |
| 463-42-625 | AMD-P | 92-02-099 |
| 463-42-625 | AMD | 92-09-013 |
| 463-42-685 | NEW-P | 92-02-099 |
| 463-42-685 | NEW-P | 92-06-070 |
| 463-42-685 | NEW-W | 92-07-002 |
| 463-42-685 | NEW | 92-10-001 |
| 463-42-690 | NEW-P | 92-02-099 |
| 463-42-690 | NEW | 92-09-013 |
| 463-47-051 | AMD-P | 92-02-099 |
| 463-47-051 | AMD | 92-09-013 |
| 463-47-090 | AMD-P | 92-02-099 |
| 463-47-090 | AMD | 92-09-013 |
| 468-51-010 | NEW-P | 92-10-041 |
| 468-51-020 | NEW-P | 92-10-041 |
| 468-51-030 | NEW-P | 92-10-041 |
| 468-51-040 | NEW-P | 92-10-041 |
| 468-51-050 | NEW-P | 92-10-041 |
| 468-51-060 | NEW-P | 92-10-041 |
| 468-51-070 | NEW-P | 92-10-041 |
| 468-51-080 | NEW-P | 92-10-041 |
| 468-51-090 | NEW-P | 92-10-041 |
| 468-51-100 | NEW-P | 92-10-041 |
| 468-51-110 | NEW-P | 92-10-041 |
| 468-51-120 | NEW-P | 92-10-041 |
| 468-51-130 | NEW-P | 92-10-041 |
| 468-51-140 | NEW-P | 92-10-041 |
| 468-51-150 | NEW-P | 92-10-041 |
| 468-66-010 | AMD-P | 92-06-010 |
| 468-66-010 | AMD | 92-09-043 |
| 468-66-090 | AMD-P | 92-06-010 |
| 468-66-090 | AMD | 92-09-043 |
| 468-66-140 | AMD-P | 92-06-010 |
| 468-66-140 | AMD | 92-09-043 |
| 478-138-010 | AMD-P | 92-09-154 |
| 478-138-020 | AMD-P | 92-09-154 |
| 478-138-030 | AMD-P | 92-09-154 |
| 478-138-040 | AMD-P | 92-09-154 |
| 478-138-050 | REP-P | 92-09-154 |
| 478-138-060 | NEW-P | 92-09-154 |
| 478-160-020 | AMD-P | 92-08-065 |
| 478-160-025 | AMD-P | 92-08-065 |
| 478-160-030 | AMD-P | 92-08-065 |
| 478-160-035 | AMD-P | 92-08-065 |
| 478-160-040 | AMD-P | 92-08-065 |
| 478-160-045 | AMD-P | 92-08-065 |
| 478-160-050 | AMD-P | 92-08-065 |
| 478-160-055 | AMD-P | 92-08-065 |
| 478-160-060 | AMD-P | 92-08-065 |
| 478-160-065 | AMD-P | 92-08-065 |
| 478-160-085 | AMD-P | 92-08-065 |
| 478-160-090 | REP-P | 92-08-065 |
| 478-160-105 | AMD-P | 92-08-065 |
| 478-160-115 | AMD-P | 92-08-065 |
| 478-160-120 | AMD-P | 92-08-065 |
| 478-160-130 | AMD-P | 92-08-065 |
| 478-160-140 | AMD-P | 92-08-065 |
| 478-160-150 | AMD-P | 92-08-065 |
| 478-160-155 | REP-P | 92-08-065 |
| 478-160-160 | AMD-P | 92-08-065 |
| 478-160-200 | REP-P | 92-08-065 |
| 478-160-205 | REP-P | 92-08-065 |
| 478-160-210 | AMD-P | 92-08-065 |
| 478-160-215 | REP-P | 92-08-065 |
| 478-160-216 | REP-P | 92-08-065 |
| 478-160-220 | REP-P | 92-08-065 |
| 478-160-225 | REP-P | 92-08-065 |
| 478-160-230 | AMD-P | 92-08-065 |
| 478-160-231 | AMD-P | 92-08-065 |
| 478-160-232 | REP-P | 92-08-065 |
| 478-160-240 | AMD-P | 92-08-065 |
| 478-160-246 | AMD-P | 92-08-065 |
| 478-160-256 | AMD-P | 92-08-065 |
| 478-160-260 | AMD-P | 92-08-065 |
| 478-160-265 | AMD-P | 92-08-065 |
| 478-160-270 | AMD-P | 92-08-065 |
| 478-160-271 | NEW-P | 92-08-065 |
| 478-160-275 | AMD-P | 92-08-065 |
| 478-160-280 | AMD-P | 92-08-065 |
| 478-160-285 | AMD-P | 92-08-065 |
| 478-160-290 | AMD-P | 92-08-065 |
| 478-160-295 | AMD-P | 92-08-065 |
| 478-160-305 | AMD-P | 92-08-065 |
| 478-160-310 | AMD-P | 92-08-065 |
| 478-160-320 | AMD-P | 92-08-065 |
| 479-01-020 | AMD-P | 92-08-095 |
| 480-04-010 | REP | 92-07-006 |
| 480-04-020 | AMD | 92-07-006 |
| 480-04-030 | AMD | 92-07-006 |
| 480-04-040 | REP | 92-07-006 |
| 480-04-050 | AMD | 92-07-006 |
| 480-04-060 | AMD | 92-07-006 |
| 480-04-065 | NEW | 92-07-006 |
| 480-04-070 | AMD | 92-07-006 |
| 480-04-080 | REP | 92-07-006 |
| 480-04-090 | AMD | 92-07-006 |
| 480-04-095 | NEW | 92-07-006 |
| 480-04-110 | AMD | 92-07-006 |
| 480-04-120 | AMD | 92-07-006 |
| 480-04-130 | AMD | 92-07-006 |
| 480-09-100 | AMD | 92-07-006 |
| 480-09-210 | AMD | 92-07-006 |
| 480-12-375 | AMD-P | 92-05-092 |
| 480-12-375 | AMD | 92-09-014 |
| 480-70-350 | AMD | 92-03-082 |
| 480-80-047 | AMD-W | 92-10-067 |
| 480-80-048 | NEW | 92-07-010 |
| 480-80-049 | NEW-P | 92-05-089 |
| 480-80-049 | NEW | 92-08-075 |
| 480-92-011 | NEW | 92-03-050 |
| 480-92-021 | NEW | 92-03-050 |
| 480-92-031 | NEW | 92-03-050 |
| 480-92-050 | NEW | 92-03-050 |
| 480-92-060 | NEW | 92-03-050 |
| 480-92-070 | NEW | 92-03-050 |
| 480-92-080 | NEW | 92-03-050 |
| 480-92-090 | NEW | 92-03-050 |
| 480-92-100 | NEW | 92-03-050 |
| 480-92-110 | NEW | 92-03-050 |
| 480-93-002 | AMD-P | 92-06-086 |
| 480-93-005 | AMD-P | 92-06-086 |
| 480-93-010 | AMD-P | 92-06-086 |
| 480-93-015 | NEW-P | 92-06-086 |
| 480-93-017 | NEW-P | 92-06-086 |
| 480-93-018 | NEW-P | 92-06-086 |
| 480-93-020 | AMD-P | 92-06-086 |
| 480-93-030 | AMD-P | 92-06-086 |
| 480-93-082 | NEW-P | 92-06-086 |
| 480-93-110 | AMD-P | 92-06-086 |
| 480-93-111 | NEW-P | 92-06-086 |
| 480-93-112 | NEW-P | 92-06-086 |
| 480-93-115 | NEW-P | 92-06-086 |
| 480-93-120 | AMD-P | 92-06-086 |
| 480-93-124 | NEW-P | 92-06-086 |
| 480-93-140 | AMD-P | 92-06-086 |
| 480-93-155 | NEW-P | 92-06-086 |
| 480-93-161 | NEW-P | 92-06-086 |
| 480-93-175 | NEW-P | 92-06-086 |
| 480-93-180 | AMD-P | 92-06-086 |
| 480-93-183 | NEW-P | 92-06-086 |
| 480-93-185 | AMD-P | 92-06-086 |
| 480-93-18601 | AMD-P | 92-06-086 |
| 480-93-187 | AMD-P | 92-06-086 |
| 480-93-188 | AMD-P | 92-06-086 |
| 480-93-190 | AMD-P | 92-06-086 |
| 480-93-200 | AMD-P | 92-06-086 |
| 480-93-210 | AMD-P | 92-06-086 |
| 480-93-230 | AMD-P | 92-06-086 |
| 480-110-018 | NEW-P | 92-05-091 |
| 480-110-018 | NEW | 92-09-078 |
| 480-110-021 | AMD-P | 92-05-090 |
| 480-110-066 | AMD-P | 92-05-090 |
| 480-120-340 | NEW | 92-03-049 |
| 480-146-091 | NEW-C | 92-05-001 |
| 480-146-091 | NEW | 92-07-009 |
| 495A-104-010 | NEW-P | 92-07-101 |
| 495A-104-010 | NEW-E | 92-08-004 |
| 495A-104-020 | NEW-P | 92-07-101 |
| 495A-104-020 | NEW-E | 92-08-004 |
| 495A-104-030 | NEW-P | 92-07-101 |
| 495A-104-030 | NEW-E | 92-08-004 |
| 495A-108-010 | NEW-P | 92-07-101 |
| 495A-108-010 | NEW-E | 92-08-004 |
| 495A-108-020 | NEW-P | 92-07-101 |
| 495A-108-020 | NEW-E | 92-08-004 |
| 495A-108-030 | NEW-P | 92-07-101 |
| 495A-108-030 | NEW-E | 92-08-004 |
| 495A-108-040 | NEW-P | 92-07-101 |
| 495A-108-040 | NEW-E | 92-08-004 |
| 495A-108-050 | NEW-P | 92-07-101 |
| 495A-108-050 | NEW-E | 92-08-004 |
| 495A-108-060 | NEW-P | 92-07-101 |
| 495A-108-060 | NEW-E | 92-08-004 |
| 495A-108-070 | NEW-P | 92-07-101 |
| 495A-108-070 | NEW-E | 92-08-004 |
| 495A-108-080 | NEW-P | 92-07-101 |
| 495A-108-080 | NEW-E | 92-08-004 |
| 495A-120-010 | NEW-P | 92-07-101 |
| 495A-120-010 | NEW-E | 92-08-004 |
| 495A-120-020 | NEW-P | 92-07-101 |
| 495A-120-020 | NEW-E | 92-08-004 |
| 495A-120-030 | NEW-P | 92-07-101 |
| 495A-120-030 | NEW-E | 92-08-004 |
| 495A-120-040 | NEW-P | 92-07-101 |
| 495A-120-040 | NEW-E | 92-08-004 |
| 495A-120-045 | NEW-P | 92-07-101 |
| 495A-120-045 | NEW-E | 92-08-004 |
| 495A-120-050 | NEW-P | 92-07-101 |
| 495A-120-050 | NEW-E | 92-08-004 |
| 495A-120-060 | NEW-P | 92-07-101 |
| 495A-120-060 | NEW-E | 92-08-004 |
| 495A-120-070 | NEW-P | 92-07-101 |
| 495A-120-070 | NEW-E | 92-08-004 |
| 495A-120-080 | NEW-P | 92-07-101 |
| 495A-120-080 | NEW-E | 92-08-004 |
| 495A-120-090 | NEW-P | 92-07-101 |
| 495A-120-090 | NEW-E | 92-08-004 |
| 495A-120-100 | NEW-P | 92-07-101 |
| 495A-120-100 | NEW-E | 92-08-004 |
| 495A-120-110 | NEW-P | 92-07-101 |
| 495A-120-110 | NEW-E | 92-08-004 |
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